

The following is the Table of Contents for the Internet Bid Package documents.

04a2606a.doc	Invitation for Bid (Attachments 1,2,3,4, 7,& 8), 23 pages
04a2606b.doc	STD 213 Standard Agreement, (Attachment 9), 1 page
04a2606c.doc	Proposed Form of Agreement, 46 pages
04a2606d.doc	Small Business Subcontracting Preference Form for Non-Small Businesses (Attachment 5), 1 page
04a2606e.doc	DVBE Participation Forms (Attachment 6), 16 pages
04a2606f.doc	Bidder's Bond, 1 page

If this Bid Package is downloaded via the Internet, you will need to submit your signed bid documents in a sealed envelope with the following information on the envelope as provided in the sample below:

YOUR RETURN
ADDRESS

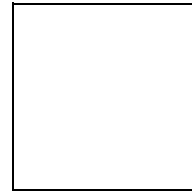
Agreement No. 04A2606

Bid Due Date: 9/28/06

Bid Due Time: 2:15 P.M.

Bid Opening Time: 2:30 P.M.

Attn: Chris Craig



Department of Transportation, MS-65
Division of Procurement and Contracts
1727 30th Street
Sacramento, CA 95816-7006

DEPARTMENT OF TRANSPORTATION**ADMINISTRATION**

DIVISION OF PROCUREMENT AND CONTRACTS MS-65

1727 30TH STREET

SACRAMENTO, CA 95816-7006

PHONE (916) 227-6000

FAX (916) 227-6155

TTY (800) 735-0193 or (916) 227-2857

INTERNET <http://caltrans-opac.ca.gov>*Flex your power!
Be energy efficient!*

Enter the Date the AD is published in the Register (CSCR)

August 24, 2006

INVITATION FOR BID (IFB)**IFB # 04A2606****Notice to Prospective Contractors**

You are invited to review and respond to this Invitation for Bid (IFB), entitled 04A2606 – Provide labor, equipment, and materials to remove and repair pavement. In submitting your bid, you must comply with the instructions found herein.

Note that all contracts entered into with the State of California, Department of Transportation (State) will include, by reference, General Terms and Conditions and Contractor Certification Clauses that may be viewed and downloaded at Internet site <http://www.ols.dgs.ca.gov/Standard+Language>. If you do not have Internet access, a hard copy can be provided by contacting the Bid Unit: telephone number (916) 227-6075 or fax number (916) 227-1950.

In the opinion of the State, this IFB is complete and without need of explanation. However, if you have questions*, or should you need any clarifying information, the designated contact person for this IFB is:

Chris Craig
Department of Transportation
(916) 227-6084
(916) 227-6155

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

Chris Craig
Contract Analyst

*Technical questions regarding this solicitation will be addressed, in writing, in accordance with the Questions and Answers portion of this IFB. See **Section C 1, Time Schedule** for more details.

Table of Contents

SECTION	PAGE
Note: Each section below is a link to the actual paragraph.	
A) Purpose and Description of Service	3
B) Bidder Minimum Qualifications	3
C) Bid Requirements and Information	3
1. Time Schedule	3
2. Questions and Answers	3
3. Inclusive Costs	4
4. Employment of undocumented aliens	4
5. Small Business Preference	4
6. State Prevailing Wages	4
7. Recycle Certification	5
8. Contractor License	5
9. Bonds	5
10. Insurance	5
11. Bid Submittal	5
12. Evaluation and Selection	7
13. Award and Protest	8
14. Standard Conditions of Service	9
D) Special Programs	9
1. Small Business Preference	9
2. Disabled Veteran Business Enterprise (DVBE) Participation Program	10
Attachments	
1. Bid Proposal (ADM-1412)	
2. Contractor Certification Clauses (CCC 1005)	
3. ADM-1511 Subcontractor Provision/List	
4. Noncollusion affidavit for Public Works	
5. Small Business Subcontracting Preference Form for Non-Small Businesses	
6. Disabled Veteran Business Enterprise (DVBE) Participation Program	
7. Bid/Bidder Certification Sheet	
8. Required Attachment Check List	
9. Sample Standard Agreement (STD 213):	
Exhibit A, Scope of Work	
Exhibit B, Budget Detail and Payment Provisions	
Exhibit C, General Terms and Conditions	
Exhibit D, Special Terms and Conditions	
Exhibit E, Additional Provisions	

A) Purpose and Description of Services

Contractor will repair, upgrade, and replace guardrails in the Counties of Santa Clara, San Mateo, and San Francisco.

Refer to the Proposed Form of Agreement, which is attached to this IFB as **Attachment 9 (Exhibit A)**.

B) Bidder's Minimum Qualifications

- A. The contractor shall be properly licensed in accordance with the laws of the State of California and shall possess a Class A, C-12, C32 or applicable license.

C) Bid Requirements and Information

1. Time Schedule

It is recognized that time is of the essence. All bidders are hereby advised of the following schedule and will be expected to adhere to the required dates and times.

Enter **TIME** - ONLY if Applicable

EVENT	DATE	TIME (Pacific Daylight Time)
IFB available to prospective bidders	8/24/06	
Written Question Submittal	9/14/06	
Final Date and Time for Bid Submission	9/28/06	2:15 PM
Bid Opening	9/28/06	2:30 PM
Notice of Intent to Award	TBD	
BEP/Risk Assessment/Pre-Award Audit Findings	TBD	
Proposed Award Date (estimate)	TBD	

2. Questions and Answers

- a) Questions regarding this IFB must be submitted in writing. Bidders are encouraged to submit their written questions by 9/14/06.
- b) Written questions must include the individual's name, firm name, complete address and must reference IFB No. 04A2606. Questions must be sent to the following address:

MAILED OR FAXED TO:
Fax No.: (916) 227-6155

Department of Transportation, MS-65
Division of Procurement and Contracts
Attention: Chris Craig

1727 30th Street
Sacramento, CA 95816

- c) Written responses to all questions will be collectively compiled and mailed, as an Addendum, to each individual or firm who downloaded this IFB from the Internet or who requested this IFB by calling the recorded bid line: (916) 227-6090. Hard copy responses are disseminated by mail and an electronic version is uploaded to the Department of Transportation's website. Refer Section C (1), **Time Schedule**, for this IFB's schedule of events and dates/times. It is the responsibility of the Bidder to inquire about an expected Addendum if the Addendum is not received. Bidder can contact the Contract Analyst named above or check the Department of Transportation's website:

<http://www.caltrans-opac.ca.gov/contract.htm>

3. Inclusive Costs

Bid prices/rates shall include the cost of employer payments to or on behalf of employees, subsistence, travel, compensation insurance premiums, unemployment contributions, social security taxes, contract bond premiums, and any other taxes or assessments, **including but not limited to, sales and use taxes** required by law or otherwise and no additional allowance will be made thereof unless separate payment provisions in the Agreement should specifically so provide.

4. Employment of undocumented aliens

No state agency or department, as defined in Public Contract Code § 10335.7, that is subject to this code, shall award a public works contract to a bidder or contractor, nor shall a bidder or contractor be eligible to bid for or receive a public works contract, who has, in the preceding five years, been convicted of violating a state or federal law regarding the employment of undocumented aliens (PCC §6101).

5. Small Business Preference: <http://www.pd.dgs.ca.gov/smbus>

Small business preference will be granted on this IFB. Only firms certified as a "Small Business" or "Microbusiness" with the Department of General Services, Office of Small Business Certification and Resources (formerly OSMB) or Contractors who commit to subcontracting a minimum of 25% of their net bid price to Small Businesses Microbusinesses, in the categories most appropriate to accomplish the prescribed services, will be granted this preference.

6. State Prevailing Wages

State General Prevailing Wage Rates will apply for the Counties of Santa Clara, San Mateo and San Francisco. Copies of the predetermined general prevailing wage rates set by the Director of Industrial Relations may be obtained by contacting Susan Samadian, Labor Compliance Officer, District 4, P.O. Box 23660, Oakland, CA 94562-0660, Phone (510) 286-5185. Copies may also be obtained via the Internet: <http://www.dir.ca.gov>

7. Recycle Certification

Your signature affixed hereon and dated on the attached Bid/Bidder Certification Sheet shall signify that you are aware of the recycle materials, goods, and supplies program requirements of California Public Contract Code Sections 12200, 12205, and 12161, and that the recycle content certification will be required for the successful contractor. The awarded bidder will be required to complete a Recycle Content Certification Form (ADM-2038) and provide the form with the signed agreement. An incomplete form or failure to provide a completed form will result in cancellation of the contract.

8. Contractor License

Bidder must have, at time of bid submittal and for the duration of the contract, a valid, current Class A, C-12, C-32 or applicable license issued by the California Contractor's State License Board, for the type of work to be performed. Bidder shall obtain, pay for and maintain, in good standing, all necessary licenses and permits to accomplish the work. Bidders will be considered non-responsive unless proper licensing requirements are met. An invalid license will result in rejection of the bid. Positive verification of a valid license issued by the California Contractor's State License Board will be performed by Caltrans (reference B&PC 7028.15).

9. Bonds

1. If the successful bidder's bid exceeds \$5,000.00, bidder will be required to provide a payment bond and a performance bond issued by a company authorized by the California Insurance Commissioner to transact surety business in California (an admitted surety insurer). The payment bond must be written for 100% of the total amount of the agreement. The performance bond must be written for 50% of total amount of the contract.
2. **Bid Bonds Required:** Bidder shall submit a bid bond with bid as described herein. The Bidder's bid bond shall be no less than 10 percent of Bidder's total bid. Submittal of a bid bond that is not in the proper amount or failure to submit a bid bond with bid, may be cause for rejection of bid.

10. Insurance

The bidder who receives the Agreement award, must provide a certificate of Insurance providing proof of insurance to the DPAC within ten (10) working days from the date of notification of award. The State's Office of Risk and Insurance Management will review insurance certificates and/or proof of self-insurance documentation before execution of the Agreement. Refer to the Proposed Form of Agreement, **Exhibit E** for the applicable specific Insurance requirements and coverage limits.

11. Bid Submittal

- a) **All bids must** be submitted in a **sealed envelope** and received by the Department of Transportation, Contract's Office by dates and times shown in Section C, Bid Requirements and Information, **Item 1) Time Schedule**. The sealed envelope must

be clearly marked with the IFB number and title; must show your firm name and address, and must be marked with "BID SUBMITTAL - DO NOT OPEN", as shown in the following example:

IFB Number: 04A2606
IFB Name: Guardrail Repair
Firm Name:
Firm Address:

BID SUBMITTAL - DO NOT OPEN

- b) Bids not submitted in a clearly labeled sealed envelope shall be rejected. A complete bid package (originals only) must be submitted. **Late bids will not be considered.**
- c) All bids shall include the documents identified in this IFB's **Attachment 8, Required Attachment Checklist**. Bids not including the proper "required attachments" shall be deemed non-responsive. A non-responsive bid is one that does not meet the basic bid requirements.
- d) Only an individual who is legally authorized to bind the proposing firm contractually shall sign all documents requiring a signature, and each document must bear an original ink signature.
- e) Mail or deliver bids to the following address:
U.S. Postal Service Deliveries (UPS, Express Mail, Federal Express) or *Hand Deliveries

Department of Transportation, MS 65
Division of Procurement and Contracts
1727 – 30th Street
Sacramento, CA 95816

* If your bid is hand delivered, you must date and time stamp the sealed envelope/package immediately upon arrival. The date/time stamp machine is located in the lobby of the first floor to the right of the security guard station at the address noted above. After date/time stamping, bids should be placed in the locked bid cabinet located below the time stamp. If the bid package is too large to be electronically stamped, date/time stamp one of the labels provided and attach it to the proposal package. When the bid package is too large for the locked bid cabinet, ask the security guard to call the Contracts' reception desk at 227-6000 to have your bid package picked up by Contracts' staff.

- f) Bid opening will be held at the above address at **2:30 PM** on the date stated in Section C - Bid Requirements and Information, 1 - Time Schedule.
- g) Bids must include the performance of all the services described herein. Any attempt to modify the bid document to deviate from the work specifications will not be considered and will cause a bid to be rejected.

- h) A bid may be rejected if it is conditional, incomplete, or if it contains any alterations of form or other irregularities of any kind. The State may reject any bid on the basis that it is not responsive or from a non-responsible bidder, and may waive any immaterial deviation in a bid. The State's waiver of an immaterial defect shall in no way modify the IFB document or excuse the bidder from full compliance with all requirements if awarded the agreement.
- i) Costs for developing bids and in anticipation of award of the contract are entirely the responsibility of the bidder and shall not be charged to the State.
- j) Only an individual who is authorized to bind the bidding firm contractually shall sign the attached Bid/Bidder Certification Sheet, **Attachment 7**. The signature must also indicate the title or position that the individual holds in the firm. **An unsigned bid shall be rejected.**
- k) A bidder may modify a bid after its submission by first withdrawing the original bid and then by resubmitting a new bid prior to the bid submittal deadline. Bidder modifications offered in any other manner, oral or written, will not be considered.
- l) A bidder may withdraw a bid by, prior to bid opening, submitting a written withdrawal request to the State, signed by the bidder or an agent authorized in accordance with section j above. A bidder may thereafter submit a new bid prior to the bid submittal deadline. Bids may not be withdrawn without cause subsequent to bid submittal deadline.
- m) The State may modify the IFB prior to the date fixed for submission of bids by the issuance of an addendum sent to all parties who received a bid package.
- n) The State reserves the right to reject all bids for reasonable cause.
- o) Bidders are cautioned to not rely on the State during its evaluation process to discover and report to the bidder any defects and errors in the submitted documents. Before submitting their documents, bidders should carefully proof them for errors and full adherence to the IFB requirements.
- p) Where applicable, bidder should carefully examine work sites and specifications. Bidder shall investigate conditions, character, and quality of surface or subsurface materials or obstacles that might be encountered. No additions or increases to the contract amount will be made due to a lack of careful examination of work sites and specifications.
- q) The State does not accept alternate contract language from a bidder. A bid with such language will be considered a counter proposal and will be rejected. **The State's General Terms and Conditions (GTC) are not negotiable.** The **GTC 306** may be viewed at Internet site <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.

12. Evaluation and Selection

- a) At the time of bid opening, each bid will be checked for the presence or absence of required information in conformance with the submission requirements of this IFB.

- b) The State will evaluate each bid to determine its responsiveness to the State's needs.
- c) Bids that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the bidder, shall be rejected.
- d) The final selection will be made on the basis of the lowest responsible responsive bid meeting the specifications. The award of the contract, if awarded, will be to the lowest responsible bidder whose proposal complies with all of the requirements. In the event of a tie bid, the State will draw lots to determine the successful contractor. Only one proposal or bid may be submitted by an entity: individual, firm, partnership, corporation, joint venture or combination thereof. Receipt of more than one bid from an entity will result in all bids from that entity being rejected and returned to the bidder.

13. Award and Protest

- a) Whenever a contract is awarded under a procedure that provides for competitive bidding, but the contract is not to be awarded to the low Bidder, the low Bidder shall be notified by telegram, electronic facsimile transmission, overnight courier, or personal delivery five (5) working days prior to the award of the contract.
- b) Upon written request by any bidder, notice of the proposed award shall be posted in a public place in the office of the awarding agency at least five (5) working days prior to awarding the contract.
- c) Grounds for Filing a Protest: After the issuance of the applicable contract award notices as specified in this IFB, the right to protest the proposed award of a contract is afforded any bidder who claims he/she should have been awarded the agreement because he/she was the lowest responsible bidder meeting the specifications. The protest must be submitted to the Department of Transportation prior to the award of contract. In such case, the contract shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter.
- d) Filing an Initial Protest: Within five (5) days after filing the initial protest, the protesting bidder shall file with the Department of General Services and the Department of Transportation a full and complete written statement specifying the grounds for the protest. The written protest must be sent to the addresses below:

Department of Transportation Division of Procurement & Contracts, MS 65 Attention: Protest and Dispute's Analyst 1727 30 th Street Sacramento, CA 95816 Phone Number: (916) 227-6096 Fax Number: (916) 227-6155	Department of General Services Office of Legal Services Attention: Protest Coordinator 707 Third Street, 7 th Floor West Sacramento, CA 95605 Phone Number: (916) 376-5080 Fax Number: (916) 376-5088
--	--

It is suggested that you submit any protest by certified or registered mail.

- e) Upon award of the contract, contractor must complete and submit to the Department of Transportation the Payee Data Record (STD 204), to determine if the contractor is subject to state income tax withholding pursuant to California Revenue and Taxation Code §18662 and §26131. This form can be found on the Internet at www.osp.dgs.ca.gov under the heading STANDARD FORMS. No payment shall be made unless a completed STD 204 has been returned to the Department of Transportation.
- f) Prior to the award of the contract, the awarded bidder(s) must sign and submit to the Department of Transportation, page one (1) of the Contractor Certification Clauses (CCC), **Attachment 2**, or this form can be obtained via the Internet at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>. Bidder may also, as an option, submit with bid package.

14. Standard Conditions of Service

- a.) After award of the contract and execution of the contract, should the contractor fail to commence work within five (5) working days after notification of the starting date, or suspend work for a period of five (5) continuous working days after work has begun, the State may provide five (5) calendar days written notice, posted at the job site or mailed to the contractor, to timely prosecute and complete the work or the contract may be terminated and liquidated damages of \$500.00 assessed for administrative costs for re-bidding the work or awarding the work to another contractor. In addition, that contractor shall be liable to the State for the difference between the contractor's bid price and the actual cost of performing the work by the second low bidder or by another contractor.
- b.) All performance under the contract shall be completed on or before the termination date of the contract.
- c.) The bidder declares that the only persons or parties interested in this bid proposal as principals are those named herein; that this bid proposal is made without collusion with any other person, firm or corporation; and the bidder has carefully examined the Invitation for Bid (IFB), the Proposed Form of Agreement, and the special provisions herein referred to, and proposes and agrees, if this proposal is accepted, that the bidder will contract with the State to provide all necessary labor, materials, tools or equipment in the time and manner specified.
- d.) If the bidder is awarded the contract and refuses to sign the contract presented for signature within the time and manner required, the bidder will be liable to the Department of Transportation for actual damages resulting to the Department therefrom of 10% of the amount bid, whichever is less.
- e.) No oral understanding or agreement shall be binding on either party.

D) Special Programs

The following Special Programs are applicable to this IFB.

1. Small Business or Microbusiness Preference

If prospective Contractor is claiming the 5% certified Small Business or microbusiness preference, complete Section 16, Attachment 7 (Bid/Bidder Certification Sheet) and attach a copy of your certification (See Attachment 7).

If prospective Contractor is committing to subcontract 25% or more of their net bid price to one of more Certified Small Businesses or microbusiness, complete Attachment 5, Small Business Subcontractor Preference Form For Non-Small Business Bidders.

Additional References: <http://www.pd.dgs.ca.gov/smbus/default.htm>

Section 14835, et seq. of the California Government Code requires that a five-percent preference be given to contractors who qualify as a certified small business or microbusiness. The rules and regulations of this law, including the definition of a small business for the delivery of services, are contained in Title 2, California Code of Regulations, Section 1896, et seq. To claim the small business or microbusiness preference, your firm must have its principal place of business located in California and be certified by the Department of General Services, Office of Small Business Certification and Resources. The preference amount may not exceed \$50,000 for any bid.

Pursuant to Government Code Section 14838 and Title 2 of the California Code of Regulations, Section 1896, in order to facilitate the participation of small businesses, including microbusinesses, the preference to such businesses shall be 5% of the lowest responsible bid. If a bidder is not a certified small business, but wishes to be eligible for the 5% "non-small business" bidders preference, the bidder must subcontract at least 25% of its net bid price to one or more certified small businesses. The proposer must provide a list with its bid identifying such certified small businesses or microbusinesses (ADM 3019, Attachment ____). Preferences may not be awarded to a noncompliant bidder and may not be used to achieve any applicable minimum requirements.

Small business and microbusiness bidders shall have precedence over non-small business bidders in the application of any bidder preference for which non-small business bidders may be eligible.

Questions regarding the certification approval process or Small Business program should be directed to that office at (800) 559-5529 or (916) 375-4940. For the 24-Hour Recording & Mail Request call (916) 322-5060.

2. Disabled Veteran Business Enterprises (DVBE)

The goal is 3%. See Attachment 6 to complete the required forms and for further detailed information concerning DVBE requirements; complete Section 16, **Attachment 3** (Bid/Bidder Certification Sheet); and, attach a copy of your certification. This project is subject to Public Contract Code 10115, et seq. which requires State funded contracts to have a participation goals of 3% for DVBE, expressed as percentages of the total dollar value of the contract for DVBEs participating in this contract. These goals apply to the overall contract dollar amount expended each year by the Department of Transportation. Failure to

provide detailed cost breakdowns and any required DVBE information in the Cost Proposal **will be cause for rejection** of the proposal.

Additional References: <http://www.pd.dgs.ca.gov/smbus/default.htm>

BID PROPOSAL

ATTACHMENT 1

Invitation for Bid No. 04A2606

ADM-1412 (REV.06/2006) PAGE __ OF __

CONTRACTOR'S NAME (Please Print):

CONTRACT NO.

PAGE
OF

ITEM NO.	ESTIMATED QUANTITY	UNIT OF MEASURE	ITEM	UNIT PRICE (In Figures)	TOTAL (In Figures)
1	10,000	Per linear foot	Reconstruct Metal Beam Guardrail (MBGR)		
2	8,000	Per linear foot	Reconstruct MBGR Barrier Double Blocked with Channel		
3	7,500	Per linear foot	Reconstruct MBGR Barrier Single Blocked with Channel		
4	4,000	Per linear foot	Reconstruct Thrie Beam		
5	1,400	Per linear foot	Reconstruct Thrie Beam Barrier Double Blocked		
6	6,100	Per linear foot	Install Terminal System End Treatments and Upgrading Units		
7	2,025	Per linear foot	Install Terminal System End Treatments and Upgrading Units from ET2000		
8	605	Per linear foot	Install Terminal System End Treatments and Upgrading Units from Cable Anchor Assemblies: C-A-T 350		
9	50	Per each assembly	End Treatments – Connections to: Bridge Rails, Retaining Walls, and Abutments		
10	50	Per each assembly	End Treatments – Connections to: Bridge Sidewalk and Curbs		
11	30	Per each assembly	Install buried anchor post		
12	8,000	Per hour	Traffic Control		

(1) THE ABOVE QUANTITIES ARE ESTIMATES ONLY AND ARE GIVEN AS A BASIS FOR COMPARISON OF BIDS. NO GUARANTEE IS MADE OR IMPLIED AS TO THE EXACT QUANTITY THAT WILL BE NEEDED.

TOTAL THIS
SHEET

(2) IN CASE OF DISCREPANCY BETWEEN THE UNIT PRICE AND THE TOTAL SET FORTH FOR A UNIT BASIS ITEM, THE UNIT PRICE SHALL PREVAIL.

TOTAL THIS
PROPOSAL

ATTACHMENT 2
CONTRACTOR CERTIFICATION CLAUSES

CCC-1005

CERTIFICATION

IFB No. 04A2606

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

I. CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST**: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. **LABOR CODE/WORKERS' COMPENSATION**: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. **AMERICANS WITH DISABILITIES ACT**: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. **CONTRACTOR NAME CHANGE**: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
 - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
 - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.
8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

ATTACHMENT 4

**NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY
BIDDER AND SUBMITTED WITH BID FOR PUBLIC WORKS**

STATE OF CALIFORNIA)
) SS
COUNTY OF)

, being first duly sworn, deposes and

says that he or she is _____ of _____
(position or title)
_____ (the bidder)

The party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Dated: _____ By _____
(person signing for bidder)

ATTACHMENT 7
BID/BIDDER CERTIFICATION SHEET

IFB No. 04A2606

This Bid/Bidder Certification Sheet must be signed and returned along with all "required attachments" as an entire package in duplicate with original signatures. The bid must be transmitted in a sealed envelope in accordance with IFB instructions. Only an individual who is authorized to bind the bidding firm contractually shall sign the Bid/Bidder Certification Sheet. The signature must indicate the title or position that the individual holds in the firm.

- A. Our all-inclusive bid is submitted in a sealed envelope marked "**Bid Submittal - Do Not Open**".
- B. All required attachments are included with this certification sheet.
- C. I have read and understand the DVBE participation requirements and have included documentation demonstrating that I have met the participation goals or have made a good faith effort.
- D. The signature affixed hereon and dated certifies compliance with all the requirements of this bid document. The signature below authorizes the verification of this certification.
- E. The signature and date affixed hereon certifies that this bid is a firm offer for a 90-day period.

An Unsigned Bid/Bidder Certification Sheet Shall Be Rejected

1. Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
Indicate applicable license and/or certification information:		
9. Contractor's State Licensing Board Number	10. PUC License Number CAL-T-	11. Required
12. Proposer's Name (Print)		13. Title
14. Signature		15. Date
16. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. Small Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____		
b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____		
NOTE: A copy of your Certification is required to be included if either of the above items is checked " Yes ". Date application was submitted to OSBCR, if an application is pending: _____		

Completion Instructions for Bid/Bidder Certification Sheet

Complete the numbered items on the
Bid/Bidder Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete if your firm holds a California contractor's license. This information will be used to verify possession of a contractor's license for public works agreements.
10	Complete if your firm holds a PUC license. This information will be used to verify possession of a PUC license for public works agreements.
11	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
12, 13, 14, 15	Must be completed. These items are self-explanatory.
16	If certified as a Small Business Enterprise, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

ATTACHMENT 8
Invitation for Bid No. 04A2606

ATTACHMENT CHECKLIST

A complete bid or bid package will consist of the items identified below.

Complete this checklist to confirm the items in your bid package. Place a check mark or "X" next to each item that you are submitting to the State. All attachments identified below (unless noted otherwise) are required and must be returned as instructed or your bid may be considered non-responsive. **Return this checklist with your bid package.**

<u>Attachments</u>	<u>Attachment Name/Description</u>
_____ Attachment 1	Bid Proposal (ADM-1412)
_____ Attachment 2	Contractor Certification Clauses (CCC _____) (current CCC number here). The CCC _____ can also be found on the Internet at http://www.dgs.ca.gov/contracts . Page one (1) must be signed and submitted prior to the award of the contract.
_____ Attachment	ADM-1511, Subcontracting Provisions/List
_____ Attachment	Noncollusion affidavit for Public Works
_____ Attachment	Small Business Preference Form For Non-Small Business Bidders, ADM-3019
_____ Attachment	Disabled Veteran Business Enterprise (DVBE) Participation Forms: STD. 840, DVBE Participation Goals and Verification and STD. 840A, DVBE Good Faith Effort Documentation , and all necessary attachments.
_____ Attachment	Target Area Contract Preference Act (TACPA)
_____ Attachment	Enterprise Zone Act (EZA)
_____ Attachment	Local Agency Military Base Recovery Area (LAMBRA) Act
_____ Attachment	Bid/Bidder Certification Sheet
_____ Attachment	Attachment Checklist

Attachment 3

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

SUBCONTRACTING PROVISIONS/LIST

Form ADM 1511 (REV. 2/99)

NAME	BUSINESS ADDRESS	DESCRIPTION OF PORTION OF WORK WHICH WILL BE DONE BY EACH CONTRACTOR*
-------------	-------------------------	--

*List each subcontractor in accordance with the "SUBCONTRACTING PROVISIONS" of this contract including any Disabled Veteran subcontractor.

*If none, bidder to write "NONE" in this space.

AGREEMENT NUMBER 04A2606
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Department of Transportation

CONTRACTOR'S NAME

2. The term of this Agreement is: 10/01/06 through 09/30/08

3. The maximum amount of this Agreement is: (to be determined)

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work 28 pages

Exhibit B – Budget Detail and Payment Provisions 8 pages

Exhibit C* – General Terms and Conditions

Check mark one item below as Exhibit D:

<input checked="" type="checkbox"/>
<input type="checkbox"/>

Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)

6 pages

Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions

6 pages

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

(To be determined)

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

Department of Transportation

BY (Authorized Signature)



DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

John Bennyhoff, Contract Officer

ADDRESS

1727 30th Street
Sacramento, CA 95816

**California Department of General
Services Use Only**

☒ Exempt per: PCC 10107

EXHIBIT A Standard Agreement

SCOPE OF WORK

1. Contractor agrees to provide to provide guardrail repair, upgrade and replacement to the Department of Transportation (Caltrans), as described herein:

The services shall be performed at various locations within Santa Clara, San Mateo and San Francisco Counties.

2. This Agreement shall begin on (To be determined), contingent upon approval by the State, and expire on (to be determined), unless extended by amendment. The majority of the services shall be provided during daylight hours, Monday through Friday, except holidays.
3. All inquiries during the term of this Agreement will be directed to the project representatives listed below:

Department of Transportation	Contractor:
Section/Unit: D-4 West Bay Region	Section/Unit:
Contract Manager: Ray Fox	Project Manager:
Address: 380 Foster City Blvd.	Address:
Foster City, CA 94404	
Bus. Phone No.: (650) 358-4145	Bus. Phone No
Fax No: (650) 573-3896	Fax No:

4. Detail description of work to be performed and duties of all parties:

A. DESCRIPTION

On an on-call as needed or emergency basis, the Contractor shall provide all labor, equipment, tools, traffic control including lane closures and all required related equipment, and incidentals to reconstruct or replace damaged Metal Beam Guard Rail (MBGR), MBGR Barrier double and single blocked with channel, Thrie beam, Thrie beam barrier double blocked, SRT 350, ET 2000, and C-A-T 350 assemblies along state highways in accordance with the contract provisions herein. The reconstruction or replacement will be performed on various state routes in Santa Clara, San Mateo and San Francisco Counties.

All guard railings, installations, upgrades, materials, and methods shall meet and conform to all provisions set forth in the July 1999 edition of the State of California, Department of Transportation's, Standard Plans Book and its revisions contained in document Errata No. 97-2, and the Standard Specifications book dated July 1999.

EXHIBIT A Standard Agreement

Contractor to reconstruct guardrail, Thrie beam barrier and replace or upgrade cable anchor assemblies on freeways, on and off ramps, expressways and secondary two lane roads. Contractor to remove and dispose of all non-usable posts, blocks, and hardware. Contractor to return at no additional costs all non usable guardrail, channel rail, and cable assemblies to the closest approved maintenance station to the project and disposed of there.

The State of California shall supply all materials necessary to complete all reconstruction of Guardrail to include all MBGR, channel rail, terminals, returns, posts and blocks, and **All SRT 350's, ET 2000's, and C-A-T 350's**. If the Contractor is required to provide any of these state supplied components they will be paid for at cost, from invoices, with no additional cost or markup added, and according to Section 9-1.03A(2) of the Standard Specifications.

The Contractor shall provide any miscellaneous hardware required, including bolts and fasteners. Miscellaneous hardware shall be included in the contract price bid for each item.

Full compensation for all labor, tools, miscellaneous hardware, equipment and incidentals required to perform state highway right of way reconstruction or replacement of damaged guardrail, Thrie beam barrier and (C-A-T 350's, SRT 350's, and ET 2000's) shall be considered as included in the contract price bid for each item as listed below. Furnishing and installing work area traffic control devices, and flagging shall be considered in the contract price paid for traffic control per hour.

Contract Bid items:

Reconstruct Metal Beam Guard Rail (MBGR)	\$ per linear foot
Reconstruct MBGR Barrier double blocked with channel	\$ per linear foot
Reconstruct MBGR Barrier single blocked with channel	\$ per linear foot
Reconstruct Thrie Beam	\$ per linear foot
Reconstruct Thrie Beam Barrier double blocked	\$ per linear foot

EXHIBIT A

Standard Agreement

Install terminal system end treatments and upgrading units from cable anchor assemblies:

- | | |
|--------------|--------------------|
| 1. SRT 350 | \$ per linear foot |
| 2. ET 2000 | \$ per linear foot |
| 3. C-A-T 350 | \$ per linear foot |

End Treatments - Connections to:

- | | |
|---|----------------------|
| 1. Bridge rails, Retaining walls, and Abutments | \$ per each assembly |
| 2. Bridge sidewalk and curbs | \$ per each assembly |

Install buried anchor post	\$ per each assembly
----------------------------	----------------------

Traffic control	\$ per hour
-----------------	-------------

B. RECONSTRUCT METAL BEAM GUARD RAILING

Damaged metal beam guard railing to be reconstructed shall be disassembled by removing the rail elements, end sections, terminal sections and return sections from the posts and blocks. All posts and blocks effected shall be removed completely and concrete anchors shall be removed.

Damaged post, blocks and hardware shall be replaced. New blocks and posts and hardware shall be added to conform to the standard post spacing (6'-3"). New posts and blocks shall be alternated with existing posts and blocks in the new location. New posts, blocks, and hardware shall conform to the requirements of Section 83-1.02B, "Metal Beam Guard Railing," of the Standard Specifications.

Where field cutting or boring of wood posts and blocks is required after treatment, all cuts and holes shall be treated with copper naphthenate as specified in AWPA Standard M4. Application of preservative in the field shall conform to the requirements in the last paragraph in Section 58-1.04, "Wood Preservative for Manual Treatment." Of the Standard Specifications.

New metal beam guard rail elements and required new backup plates, terminal sections, end sections, and return sections shall conform to requirements of Type 2 W-Beam as shown in AASHTO Designation: M 180.

All metal components of the removed metal beam guard railing that are not damaged components shall be used in the reconstruction work. Damaged components and other components such as treated post and block shall be disposed of according to the Department of Toxic Substance Control (DTSC)

EXHIBIT A

Standard Agreement

regulations. The removed guard railing, rails, terminals, and returns that are not used in the reconstruction work shall be disposed of at the closest approved maintenance station.

Full compensation for disposing of all components not used in the reconstruction work shall be considered as included in the contract price paid per linear foot for reconstruct metal beam guard railing and no separate payment will be made therefor.

C. TERMINAL SYSTEM END TREATMENTS

Terminal system end treatments; C-A-T 350, SRT 350, or ET 2000 for reconstructed metal beam guard railing will be supplied by the State and shall conform to the requirements specified under "Reconstruct Metal Beam Guard Railing" in these special provisions. Terminal system end treatments will be replaced with the appropriate anchor assembly (breakaway); C-A-T 350, SRT 350, or ET 2000 as directed by the Contract Manager or his/her representative.

1) Terminal System SRT – 350

Terminal System (SRT - 350) shall be furnished and installed as shown in the (1) JULY 1999 EDITION OF THE STANDARD PLANS BOOK, AND (2) ALL THE REVISED STANDARD PLANS (RSPs) AND NEW STANDARD PLANS (NSPs), AVAILABLE FROM THE ENGINEERING SERVICE CENTER-OFFICE OF OFFICE ENGINEER, and (3) Standard Specifications book dated July 1999, and as specified in these special provisions.

The terminal system shall be an energy absorbing terminal type, Model No. SRT-350, as made by Syro Steel Company, -or equal, and shall include all the items listed for "Terminal System (SRT-350)" shown on the plans as stated above. PLEASE REFER TO STANDARD PLAN NSP A77L.

Guard railing elements shall be galvanized 12 gage steel, conforming to the requirements of AASHTO Designation M-180. Wood posts and blocks shall conform to the requirements of AASHTO Designation M-168 and shall be treated with preservative as specified in AASHTO Designation M-133.

High strength bolts and nuts for guard rail connections shall conform to AASHTO Designation M-325. Plate washers used for such connections shall be commercial quality. Bolts, nuts and plate washers shall be galvanized in accordance with the provisions in Section 75-1.05, "Galvanizing", of the Standard Specifications.

EXHIBIT A

Standard Agreement

The terminal system shall be installed in accordance with the manufacturer's recommendations.

A Type P or Type L marker panel (which ever is appropriate) shall be attached to the first wood post when directed to by the Contract Manager. The marker panel shall be firmly fastened with commercial quality hardware or by other methods approved by the Contract Manager.

The Contractor shall provide the Contract Manager one copy of the manufacturer's plan and parts list for each model installed.

The Contractor shall provide the Contract Manager with the manufacturer's Certificate of Compliance in accordance with the provisions of Section 6-1.07, "Certificates of Compliance", of the Standard Specifications. Said certificate shall certify that the terminal systems comply with the plans and specifications, confirm to the prequalified design and material requirements, and were manufactured in accordance with the approved quality control program.

Terminal system (SRT-350) will be measured and paid for by the unit determined from actual count in place in the completed work.

The contract unit price paid for terminal system (SRT-350), shall include full compensation for furnishing all labor, materials (including hardware and Type P or Type L marker panels, which ever is appropriate), tools, equipment, and incidentals, and for doing all work involved in furnishing and installing the terminal system, complete in place, as shown on the plans, as recommended by the manufacturer, as specified in the Standard Specifications and in these special provisions, and as directed by the Contract Manager.

2) Terminal System ET – 2000

Terminal System (ET 2000) shall be furnished and installed as shown in the (1) JULY 1999 EDITION OF THE STANDARD PLANS BOOK, AND (2) ALL THE REVISED STANDARD PLANS (RSPs) AND NEW STANDARD PLANS (NSPs), AVAILABLE FROM THE ENGINEERING SERVICE CENTER-OFFICE OF OFFICE ENGINEER, and (3) Standard Specifications book dated July 1999, and as specified in these special provisions.

The terminal system shall be an energy absorbing terminal type, SYRO Model No. ET-2000 (Option "B") as made by the Syro Steel Company, or equal, and shall include all the items listed for "Terminal System (ET-2000) shown on the plans as stated above. PLEASE REFER TO STANDARD PLAN NSP A77M.

EXHIBIT A

Standard Agreement

Guard railing elements shall be galvanized 12 gage steel, conforming to the requirements of AASHTO Designation M-180. Wood posts and blocks shall conform to the requirements of AASHTO Designation M-168 and shall be treated with preservative as specified in AASHTO Designation M-133.

High strength bolts and nuts for guard rail connections shall conform to ATSM Designation A 325. Plate washers used for such connections shall be commercial quality. Bolts, nuts, and plate washers shall be galvanized in accordance with the provisions in Section 75-1/05, "Galvanizing", of the Standard Specifications.

The terminal system shall be installed in accordance with the manufacturer's recommendations.

A Type P or Type L marker panel (which ever is appropriate) shall be installed at the first wood post. The marker panel shall be firmly fastened with commercial quality hardware or by other methods approved by the Contract Manager.

The Contractor shall furnish to the Contract Manager one copy of the manufacturer's plan and parts list for each model installed.

The Contractor shall provide the Contract Manager with the manufacturer's "Certificate of Compliance" in accordance with the provisions of Section 6-1.07, "Certificates of Compliance", of the Standard Specifications. Said certificate shall certify that the terminal systems comply with the plans and specifications, conform to the prequalified design and material requirements, and were manufactured in accordance with the approved quality control program.

Terminal system (ET-2000) will be measured and paid for by the unit determined from actual count in place in the completed work.

The contract unit price paid for terminal system (ET-2000), shall include full compensation for furnishing all labor, materials (including hardware and Type P or Type L marker panels, which ever is appropriate), tools, equipment, and incidentals, and for doing all work involved in furnishing and installing the terminal system, complete in place as shown on the plans, as recommended by the manufacturer, as specified in the Standard Specifications and these special provisions, and as directed by the Contract Manager.

3) Terminal system C-A-T 350

Terminal System (C-A-T 350) shall be furnished and installed as shown in the (1) JULY 1999 EDITION OF THE STANDARD PLANS BOOK, AND (2) ALL

EXHIBIT A

Standard Agreement

THE REVISED STANDARD PLANS (RSPs) AND NEW STANDARD PLANS (NSPs), AVAILABLE FROM THE ENGINEERING SERVICE CENTER-OFFICE OF OFFICE ENGINEER, And (3) Standard Specification dated July 1999, and as specified in these special provisions.

The terminal system shall be an energy absorbing terminal type, SYRO Model No. C-A-T 350 as made by the Syro Steel Company, or equal, and shall include all the items listed for "Terminal System (C-A-T 350) shown on the plans as stated above. PLEASE REFER TO STANDARD PLAN NSP A77N

Guard railing elements shall be galvanized 12 gage steel, conforming to the requirements of AASHTO Designation M-180. Wood posts and blocks shall conform to the requirements of AASHTO Designation M-168 and shall be treated with preservative as specified in AASHTO Designation M-133.

High strength bolts and nuts for guard rail connections shall conform to ATSM Designation A 325. Plate washers used for such connections shall be commercial quality. Bolts, nuts, and plate washers shall be galvanized in accordance with the provisions in Section 75-1/05, "Galvanizing", of the Standard Specifications.

The terminal system shall be installed in accordance with the manufacturer's recommendations.

A Type P or Type L marker panel (which ever is appropriate) shall be attached to the first wood post. The marker panel shall be firmly fastened with commercial quality hardware or by other methods approved by the Contract Manager.

The Contractor shall furnish to the Contract Manager one (1) copy of the manufacturer's plan and parts list for each model installed.

The Contractor shall provide the Contract Manager with the manufacturer's "Certificate of Compliance" in accordance with the provisions of Section 6-1.07, "Certificates of Compliance", of the Standard Specifications. Said certificate shall certify that the terminal systems comply with the plans and specifications, conform to the prequalified design and material requirements, and were manufactured in accordance with the approved quality control program.

Terminal system (C-A-T 350) will be measured and paid for by the unit determined from actual count in place in the completed work.

The contract unit price paid for terminal system (C-A-T 350), shall include full compensation for furnishing all labor, materials (including hardware and Type P

EXHIBIT A

Standard Agreement

or Type L marker panels, whichever is appropriate), tools, equipment, and incidentals, and for doing all work involved in furnishing and installing the terminal system, complete in place as shown on the plans, as recommended by the manufacturer, as specified in the Standard Specifications and these special provisions, and as directed by the Contract Manager

D. RECONSTRUCT THREE BEAM BARRIER

Three beam barrier shall conform to the provisions in Section 83-2, "Barriers," of the Standard Special Provisions and these special provisions. Damaged Three beam barrier to be reconstructed shall be disassembled by removing the rail elements, end sections, terminal sections and return sections for the posts and blocks. Affected posts and blocks shall be removed completely and concrete anchors shall be removed.

Where field cutting or boring of wood posts and blocks is required after treatment, all cuts and holes shall be treated with copper naphthenate as specified in AWP Standard M4. Application of preservative in the field shall conform to the requirements in the last paragraph in Section 58-1.04, "Wood Preservative for Manual Treatment." of the Standard Specifications.

All metal components of the removed Three beam barrier that are not damaged components shall be used in the reconstruction work. Damaged components and other components of the removed guard railing that are not used in the reconstruction work shall be disposed of.

Existing oleanders, trees, and shrubs shall be trimmed as directed by the Engineer to clear the work area. Trimmings shall be disposed of outside the highway right of way as provided in Section 7-1.13 of the Standard Specifications.

Full compensation for trimming existing plants and disposing of the trimming, and disposing of metal components not used in the reconstruction work shall be considered as included in the contract price paid per linear foot for reconstruct metal beam guard railing and no separate payment will be made therefor.

5. TASK ORDER

EXHIBIT A Standard Agreement

A. Specific work shall be requested by Task Orders (page 29 Exhibit A), which must list the following:

Date of request	Requester's Name
Date service required	Contract Manager's Approval
Contract Number	Unit Number
Location service needed (Co./Rte/P.M.)	Traffic Control required
Type of Guardrail and Estimate of Linear Feet	Traffic Control restrictions

Maximum term per task order shall not exceed 6 months (NO EXCEPTIONS).

- B. The working days for each task order issued, shall be specified as the period of performance stated on each task order.
- C. Non- material changes may be listed in task orders at the direction of the Contract Manager.

EXHIBIT A

Standard Agreement

SPECIAL PROVISIONS

A. SECTION 1 - GENERAL

1.1 GENERAL

The State of California Department of Transportation Standard Plans dated July 1999 are hereby incorporated into this contract and made a part thereof. All work accomplished shall be done in accordance with the State of California Department of Transportation Specifications dated July 1999, these special provisions and the proposed form of contract. Any reference to "plans" or "Standard Plans" shall be interpreted as referring to these Standard Plans dated July 1999. Any reference to "specifications" or "Standard Specifications" shall be interpreted as referring to these Standard Specifications dated July 1999.

Any reference to 'the Engineer' in the Standard Specifications, will be replaced with 'the Contract Manager' for the purposes of this contract.

No move-in/move-out will be paid on equipment. No per diem will be paid. No additional payment will be made for travel time to and from the job site.

The Contractor shall respond for work within (5) days of receiving a Task Order, unless an extension is approved by the Contract Manager.

No additional compensation will be allowed for specialized equipment.

Prescribed fire protection measures shall be followed as directed by the Contract Manager and in conformance with the current laws and regulations, for work off the travel-way.

Work completed daily must be reported daily in writing to the Contract Manager and must include: linear feet of metal beam guard railing or Thrie beam barrier reconstructed, end treatments constructed, location by county, route and postmile and a description of work performed; including hours worked, traffic control used.

The Contractor shall notify the appropriate regional notification center for operators of subsurface installations at least two (2) working days, but not more than fourteen (14) calendar days, prior to commencing any excavation for posts. The regional notification centers include, but are not limited to the following:

EXHIBIT A

Standard Agreement

<u>Notification Centers</u>	<u>Telephone Number</u>
Underground Service Alert-Northern California (USA)	1 (800) 642-2444
Underground Service Alert-Southern California (USA)	1 (800) 422-4133
South Shore Utility Coordinating Council (DIGS)	1 (800) 541-3447
Western Utilities Underground Alert, Inc.	1 (800) 424-3447

All excavations required to install posts shall be performed by hand methods without the use of power equipment specification, except that power equipment may be used if it is determined there are no utility facilities in the area of the proposed post holes.

All permits required by local ordinances are to be secured and paid for by the Contractor.

Working days shall be defined for each task order issued as the period of performance stated on each task order.

1.2 AUTHORITY OF CONTRACT MANAGER

The Contract Manager shall decide all questions which may arise as to the quality or acceptability of materials furnished and work performed and as to the manner of performance and rate of progress of the work; all questions which may arise as to the interpretation of the plans and special provisions; all questions as to the acceptable fulfillment of the contract on the part of the Contractor; and all questions as to compensation. The Contract Manager's decision shall be final and he shall have authority to enforce and make effective such decisions and orders which the Contractor fails to carry out promptly.

References to the Contract Manager in these special provisions, shall refer to the Contract Manager, the designated Contract Administrator, or the their designated representatives. A list of these individuals will be provided to the Contractor upon approval of the contract.

If at any time the Contract Manager or his representative determine the Contractor's operation to be a problem for environmental or safety reasons, they may shut down the

EXHIBIT A

Standard Agreement

Contractor's operation until the problem is remedied. Additional working days will not be accessed for this reason.

Before starting work, the Contractor shall designate, in writing, an authorized representative who shall have the authority to represent and act in Contractor's behalf. Said authorized representative or designee, shall be present at the work site at all times while work is actually in progress.

1.3 INSPECTION

The Contract Manager or his representative shall, at all times, have safe access to the work and shall be furnished with every reasonable facility for ascertaining that the materials and the workmanship are in accordance with the requirements and intentions of these special provisions. All work done and all materials furnished shall be subject to inspection.

The inspection of the work shall not relieve the Contractor of any of the obligations to fulfill the terms of the contract as prescribed. Work not meeting such requirements shall be made good and unsuitable work may be rejected notwithstanding that such work has been previously inspected by the Contract Manager.

If work is not accomplished within the prescribed time limits, the state may cause such work to be remedied, removed, or replaced, and deduct the costs from any moneys due or to become due the Contractor.

1.4 SOUND CONTROL REQUIREMENTS

Sound control shall conform to Section 7-1.01I of the Standard Specifications and these special provisions.

The noise level from the Contractor's operations, between the hours of 9:00 p.m. and 6:00 a.m., shall not exceed 86 dbA at a distance of 50 feet. This requirement in no way relieves the Contractor from responsibility for complying with local ordinances regulating noise level.

1.5 AIR POLLUTION CONTROL

The Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes which apply to any work performed pursuant to the contract, including any air pollution control rules, regulations, ordinances and statutes, specified in Section 11017 of the Government Code.

EXHIBIT A

Standard Agreement

Unless otherwise provided in the special provisions, material to be disposed of shall not be burned, either inside or outside the highway right of way.

1.6 WATER POLLUTION

The Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, bays, and coastal waters from pollution with fuels, oils, bitumens, calcium chloride and other harmful materials and shall conduct and schedule all operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, bays and coastal waters. Care shall be exercised to preserve roadside vegetation beyond the limits of the work.

Water pollution control work is intended to provide prevention, control, and abatement of water pollution to streams, waterways, and other bodies of water, and shall consist of constructing those facilities which may be specified herein or directed by the Contract Manager.

The Contractor shall coordinate water pollution control work with all other work done on the contract.

If necessary, the Contractor shall submit, for acceptance by the Contract Manager, a program to control water pollution effectively during work. Details and requirements pertaining to water pollution control, and what an acceptable program entails shall be found in Section 7-1.01G of the Standard Specifications.

Nothing in the terms of the contract nor in these special provisions shall relieve the Contractor of the responsibility for compliance with Sections 5650 and 12015 of the Fish and Game Code, or other applicable statutes relating to prevention or abatement of water pollution.

1.7 SAFETY AND HEALTH PROVISIONS

The Contractor shall conform to all applicable occupational safety and health standards, rules, regulations and orders established by the State of California.

All working areas utilized by the Contractor to perform work during the hours of darkness, shall be lighted to conform to the minimum illumination intensities established by California Division of Occupational Safety and Health Construction Safety Orders.

The Contractor shall provide all safety equipment, materials and training as required. Training records must be retained for review as needed.

EXHIBIT A

Standard Agreement

All lighting fixtures shall be mounted and directed in a manner precluding glare to approaching traffic.

1.8 PUBLIC CONVENIENCE

This section defines the Contractor's responsibility with regard to convenience of the public and public traffic in connection with his operations.

Attention is directed to the section "Public Safety" for provisions relating to the Contractor's responsibility for the safety of the public. The requirements in "Public Safety" are in addition to the requirements of this section "Public Convenience" and the Contractor will not be relieved of the responsibilities as set forth in said "Public Safety" by reason of conformance with any of the provisions in "Public Convenience".

The Contractor shall so conduct operations as to offer the least possible obstruction and inconvenience to the public and shall have under work no greater length or amount of work than can prosecute properly with due regard to the rights of the public.

All public traffic shall be permitted to pass through the work with as little inconvenience and delay as possible.

Existing traffic signals and highway lighting shall be kept in operation for the benefit of the traveling public during progress of the work, and other forces will continue routine maintenance of existing systems.

Work shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners.

Convenient access to driveways, houses, and buildings along the line of the work shall be maintained and temporary approaches to crossings or intersecting highways shall be provided and kept in good condition.

The Contractor may be required to cover certain signs which regulate or direct public traffic to roadways that are not open to traffic. The Contract Manager will determine which signs shall be covered.

1.9 PUBLIC SAFETY

It is the Contractor's responsibility to provide for the safety of traffic and the public when working under this contract.

EXHIBIT A

Standard Agreement

Attention is directed to "Responsibility for Damage" and "Public Convenience," for provisions relating to the Contractor's responsibility for providing for the convenience of the public in connection with his operations.

Signs, lights, flags, and other warning and safety devices and their use shall conform to the requirements set forth in the current Manual of Traffic Controls, hereby incorporated by reference. Signs or other protective devices furnished and erected by the Contractor at the Contractor's expense, as above provided, shall not obscure the visibility of, nor conflict in intent, meaning and function of either existing signs, lights and traffic control devices or any construction area signs and traffic control devices. Signs furnished and erected by the Contractor at the Contractor's expense shall be approved by the Contract Manager as to size, wording and location.

The installation of general roadway illumination shall not relieve the Contractor of the responsibility for furnishing and maintaining any of the protective facilities herein before specified.

Equipment shall enter and leave the highway via existing ramps and crossovers and shall move in the direction of public traffic. All movements of workers and equipment on or across lanes or ramps open to public traffic shall be performed in a manner that will not endanger public traffic.

The Contractor's trucks or other mobile equipment which leave a freeway lane, that is open to public traffic, to enter the work area, shall slow down gradually in advance of the location of the turnoff to give following public traffic an opportunity to slow down.

When leaving a work area and entering a roadway carrying public traffic, the Contractor's equipment, whether empty or loaded, shall in all cases yield to public traffic, and operate in compliance with current laws and regulations.

No material or equipment shall be stored where it will interfere with the free and safe passage of public traffic, and at the end of each day's work and at other times when construction operations are suspended for any reason, the Contractor shall remove all equipment and other obstructions from that portion of the roadway open for use by public traffic.

Any tools, equipment, supplies or facilities which the Contractor uses to perform the work shall be removed from state right of way at the end of each day except as approved by the Contract Manager. No tool, equipment, supplies or facilities shall be installed or placed where they will interfere with the free and safe passage of public traffic.

Should the Contractor appear to be neglectful or negligent in furnishing warning devices and taking protective measures as above provided, the Contract Manager may direct

EXHIBIT A

Standard Agreement

attention to the existence of a hazard and the necessary warning devices shall be immediately furnished and installed and protective measures taken by the Contractor at his expense. Should the Contract Manager point out the inadequacy of warning devices and protective measures, such action on the part of the Contract Manager shall not relieve the Contractor from responsibility for public safety or abrogate his obligation to furnish and pay for these devices and measures.

1.10 PRESERVATION OF PROPERTY

Attention is directed to the section called "Responsibility for Damage." Due care shall be exercised to avoid injury to existing highway improvements or facilities, utility facilities, adjacent property, and roadside trees, shrubs, and other plants that are not to be removed.

Roadside trees, shrubs, and other plants that are not to be removed, and pole lines, fences, signs, markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and water lines, all highway facilities, and any other improvements or facilities within or adjacent to the highway shall be protected from injury or damage. If such objects are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored, in kind, done at the Contractor's expense. The facilities shall be replaced or restored to a condition as good as when the Contractor entered upon the work, or as good as required by these special provisions, if any such objects are a part of the work being performed under the contract. The Contract Manager may make or cause to be made such temporary repairs as are necessary to restore to service any damaged highway facility. The cost of such repairs shall be borne by the Contractor and may be deducted from any moneys due or to become due him under the contract.

Contractor shall make all reasonable efforts to identify, preserve and protect native seedlings especially oak trees, in vicinity of project during all work activities.

It shall be the Contractor's responsibility, pursuant thereto, to ascertain the location of overhead and underground improvements or facilities which may be subject to damage by reason of the Contractor's operations.

1.11 COOPERATION

Should construction or other maintenance work be under way by other forces or by other contractors within or adjacent to the limits of the work specified or should work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other contractors or other forces to the end that any delay or hindrance to their work will be avoided. When 2 or more contractors are employed on related or adjacent work, each shall conduct their operations in such a manner as not to cause any unnecessary delay or hindrance to the other.

EXHIBIT A

Standard Agreement

Each contractor shall be responsible to the other for all damage to work, to persons or property caused to the other by operations, and for loss caused the other due to unnecessary delays or failure to finish the work within the time specified for completion.

1.12 CHARACTER OF WORKPERSONS

If any subcontractor or person employed by the Contractor shall appear to the Contract Manager to be incompetent or to act in a disorderly or improper manner, the person shall be discharged immediately on the request of the Contract Manager, and such person shall not again be employed on the work.

1.13 SOURCE OF SUPPLY AND QUALITY OF MATERIALS

The Contractor shall furnish all materials required to complete the work, except those materials designated to be furnished by the State. Only materials conforming to the requirements of the Standard Specifications or these special provisions shall be incorporated in the work.

The materials furnished and used shall be new. The materials shall be manufactured, handled, and used in a workmanlike manner to insure completed work in accordance with these special provisions

Materials to be used in the work will be subject to inspection and tests by the Contract Manager or the designated representative. The Contractor shall furnish without charge such samples as may be required.

The Contractor shall furnish the Contract Manager a list of sources of materials and the locations at which such materials will be available for inspection. The list shall be submitted on a State-furnished form and shall be furnished to the Contract Manager in sufficient time to permit inspecting and testing of materials to be furnished from such listed sources in advance of their use. The Contract Manager may inspect, sample or test materials at the source of supply or other locations, but such inspection, sampling or testing will not be undertaken until the Contract Manager is assured by the Contractor of the cooperation and assistance of both the Contractor and the supplier of the material. The Contractor shall assure that the Contract Manager or his authorized representative has free access at all times to the material to be inspected, sampled or tested. It is understood that such inspections and tests if made at any point other than the point of incorporation in the work in no way shall be considered as a guaranty of acceptance of such material nor of continued acceptance of material presumed to be similar to that upon which inspections and tests have been made, and that inspection and testing performed by the State shall not relieve the Contractor or the Contractor's suppliers of responsibility for quality control.

EXHIBIT A

Standard Agreement

Manufacturers' warranties, guaranties, instruction sheets and parts lists, which are furnished with certain articles or materials incorporated in the work, shall be delivered to the Contract Manager before acceptance of the contract.

Reports and records of inspections made and tests performed, when available at the site of the work, may be examined by the Contractor.

1.14 STATE-FURNISHED MATERIALS

Materials which are listed as State-furnished materials in these special provisions will be available to the Contractor free of charge. The following materials shall be picked up by the Contractor at the closest approved Maintenance Station:

Metal beam guardrail, Thrie beam barrier, channel rail, end wraps, posts and blocks and end treatments (all types).

The State will furnish needed material in advance of the date of its intended use. The location for all materials to be picked up will be the Maintenance Station closest to the project. Materials shall be picked up during the normal working hours of 0730 to 1600 hrs. Said materials shall be hauled to the site of the work by the Contractor at the Contractor's expense, including any necessary loading and unloading that may be involved. All costs of handling and placing State-furnished material shall be considered as included in the price paid for the contract item involving such State-furnished material.

The Contractor shall be responsible for all materials furnished to him, and shall pay all demurrage and storage charges. State-furnished materials lost or damaged from any cause whatsoever shall be replaced by the Contractor at the Contractor's expense. All State-furnished material that is not used on the work shall remain the property of the State and shall be delivered to the Contract Manager.

Articles or materials to be incorporated in the work shall be stored in such a manner as to insure the preservation of their quality and fitness for the work, and to facilitate inspection.

1.15 DEFECTIVE MATERIALS

All materials, supplied by the Contractor, which the Contract Manager has determined do not conform to the requirements of these special provisions will be rejected whether in place or not. They shall be removed immediately from the site of the work, unless otherwise permitted by the Contract Manager. No rejected material, the defects of which have been subsequently corrected, shall be used in the work, unless approval in writing has been given by the Contract Manager. Upon failure of the Contractor to comply promptly with any order of the Contract Manager made under these provisions, the Contract Manager shall have authority to cause the removal and replacement of rejected

EXHIBIT A

Standard Agreement

material and to deduct the cost thereof from any moneys due or to become due the Contractor.

1.16 CERTIFICATES OF COMPLIANCE

A Certificate of Compliance shall be furnished prior to the use of any materials for which the Standard specifications or these special provisions require that such a certificate be furnished. In addition, when so authorized in these special provisions, the Contract Manager may permit the use of certain materials or assemblies prior to sampling and testing if accompanied by a Certificate of Compliance. The certificate shall be signed by the manufacturer of the material or the manufacturer of assembled materials and shall state that the materials involved comply in all respects with the requirements of these special provisions. A Certificate of Compliance shall be furnished with each lot of material delivered to the work and the lot so certified shall be clearly identified in the certificate.

All materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material in the work which conforms to the requirements of these special provisions and any such material not conforming to such requirements will be subject to rejection whether in place or not.

The Department reserves the right to refuse to permit the use of material on the basis of a Certificate of Compliance.

The form of the Certificate of Compliance and its disposition shall be as directed by the Contract Manager.

1.17 CONTRACTOR'S RESPONSIBILITY FOR THE WORK AND MATERIALS

Until the acceptance of the contract, the Contractor shall have the charge and care of the work and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work, except as provided in the sections titled "Public Convenience". The Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the work occasioned by any cause before its completion and acceptance and shall bear the expense thereof, except as otherwise expressly provided in section 7-1.165 of the Standard Specifications and except for such injuries, losses, or damages as are directly and proximately caused by acts of the Federal Government or the public enemy. Where necessary to protect the work from damage, the Contractor shall, at his expense, provide suitable drainage of the roadway and erect such temporary structures as are necessary to protect the work from damage. The suspension of the work from any cause whatever shall not relieve the Contractor of his responsibility for the work as herein specified.

EXHIBIT A Standard Agreement

1.18 REMOVAL OF REJECTED AND UNAUTHORIZED WORK

All work which has been rejected shall be remedied by the Contractor and no additional compensation will be allowed the Contractor for such remedial work.

Any work done beyond that established by the Contract Manager will be considered as unauthorized work and will not be paid for. Upon order of the Contract Manager unauthorized work shall be remedied, removed, or replaced at the Contractor's expense. Upon failure of the Contractor to comply promptly with any order to remove rejected or unauthorized work, the Department may cause such work to be remedied, removed, or replaced, and deduct the costs from any moneys due or to become due the Contractor.

1.19 DISPOSAL OF MATERIAL OUTSIDE THE HIGHWAY RIGHT OF WAY

The Contractor shall make all arrangements for disposing of materials outside the highway right of way and shall pay all costs involved. Details on requirements, procedures, authorization and documentation shall be as indicated in Section 7-1.13 of the Standard Specifications. **All disposal of material must comply with the Department of Toxic Substance Control Regulations.**

Full compensation for all costs involved in disposing of materials as specified in this section, including all costs of hauling, shall be considered as included in the contract unit price to be paid and no additional compensation will be allowed therefor.

1.20 DAMAGED FACILITIES

The Contractor shall be responsible for replacing state facilities or private property lost or damaged due to Contractor personnel actions. The Contractor shall be liable to the Department or property owner for the cost of replacing these facilities, in kind. If replacement is not made, costs may be deducted from any moneys due or to become due the Contractor.

1.21 RESPONSIBILITY FOR DAMAGE

Responsibility for damage will be as stated in Section 7-1.12 of the Standard Specifications, with all references to 'the Engineer' replaced with 'the Contract Manager'. For damage caused by natural disasters see Section 7-1.165 of the Standard Specifications.

1.22 RIGHTS IN LAND AND IMPROVEMENTS

EXHIBIT A

Standard Agreement

Nothing in these specifications shall be construed as allowing the Contractor to make any arrangements with any person to permit occupancy or use of any land, structure, or building within the limits of the contract for any purpose whatsoever, either with or without compensation, in conflict with any agreement between the State and any owner, former owner, or tenant of such land, structure, or building.

The Contractor shall not occupy State-owned property outside the right of way in which the work is situated, unless he enters into a rental agreement with the Department. The agreement will be based on the fair rental values.

1.23 PERSONAL LIABILITY

Neither the Director, the Contract Manager, nor any other officer or authorized employee of the State of California, nor any officer or employee of any county, city or district shall be personally responsible for any liability arising under or by virtue of the contract.

1.24 LEGAL ACTIONS AGAINST THE DEPARTMENT

In the event litigation is brought against the Department concerning compliance by the Department with State or Federal laws, rules or regulations applicable to highway work, the provisions of this section shall apply.

- (A) If, pursuant to court order (other than an order to show cause) the Department is prohibited from requiring the Contractor to perform all or any portion of the work, the Department may, if it so elects, eliminate the enjoined work or terminate the contract.
- (B) If the final judgment in the action prohibits the Department from requiring the Contractor to perform all or any portion of the work, the Department will either eliminate the enjoined work or terminate the contract.
- (C) If the contract is to be terminated, the termination and the determination of the total compensation payable to the Contractor shall be governed by the provisions of the section titled "Termination of Contract" of these special provisions.

1.25 TEMPORARY SUSPENSION OF WORK

The Contract Manager shall have the authority to suspend the work wholly or in part, for such period as he may deem necessary, due to unsuitable weather, or to such other conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as he may deem necessary due to the failure on the part of the Contractor to carry out orders given, or to perform any provision of the contract. The Contractor shall immediately comply with the written order of the Contract Manager to suspend the work

EXHIBIT A

Standard Agreement

wholly or in part. The suspended work shall be resumed when conditions are favorable and methods are corrected, as ordered or approved in writing by the Contract Manager.

In the event that a suspension of work is ordered as provided above, and should such suspension be ordered by reason of the failure of the Contractor to carry out orders or to perform any provision of the contract; or by reason of weather conditions being unsuitable for performing any item or items of work, which work, in the sole opinion of the Contract Manager, could have been performed prior to the occurrence of such unsuitable weather conditions had the Contractor diligently prosecuted the work when weather conditions were suitable; the Contractor, at his expense, shall do all the work necessary to provide a safe, smooth, and unobstructed passageway through the work area for use by public traffic during the period of such suspension as provided in "Public Convenience," and "Public Safety," and as specified in these special provisions for the work. In the event that the Contractor fails to perform the work above specified, the Department will perform such work and the cost thereof will be deducted from moneys due or to become due the Contractor.

1.26 FINAL CLEANING UP

Before final inspection of work site, the Contractor shall clean the highway, material sites, and all ground occupied by the Contractor in connection with the work of all rubbish, excess materials, temporary structures and equipment. All parts of the work shall be left in a neat and presentable condition. Full compensation for final cleaning up will be considered as included in the contract unit rate and no separate payment will be made therefor.

Nothing herein, however, shall require the Contractor to remove warning, regulatory, and guide signs prior to formal acceptance by the Contract Manager

1.27 ACCEPTANCE OF WORK

When the Contract Manager has made final inspection as provided and determines that the contract work has been completed, the Contract Manager will accept the work completed, and immediately upon and after such acceptance by the Contract Manager, the Contractor will be relieved of the duty of maintaining and protecting the work as a whole and the Contractor will not be required to perform any further work thereon. The Contractor shall be relieved of the responsibility for injury to persons or property or damage at that assigned project site after the acceptance by the Contract Manager.

B. SECTION 2 - MAINTAINING TRAFFIC

EXHIBIT A

Standard Agreement

2.1 GENERAL

Attention is directed to the Manual of Traffic Controls and the Standard Plans and Specifications published by the State of California Department of Transportation. Nothing in this section is to be construed as to reduce the minimum standards in said manual or standards.

Personal vehicles of the Contractor's employees shall not be parked on the traveled way or shoulders, including any section closed to public traffic.

Whenever vehicles or equipment are parked on the shoulder within 1.8 m (6 ft.) of a traffic lane, the shoulder area shall be closed with fluorescent traffic cones or portable delineators placed on a taper in advance of the parked vehicles or equipment and along the edge of the pavement at 7.5 m (25 ft.) intervals to a point not less than 7.5 m (25 ft.) past the last vehicle or piece of equipment. A minimum of 9 cones or portable delineators shall be used for the taper. A C23 (ROAD WORK AHEAD) or C24 (SHOULDER WORK AHEAD) sign shall be mounted on a portable sign stand with flags. The sign shall be placed where directed by the Contract Manager.

In addition to the provisions set forth in "Public Safety", elsewhere in these special provisions, whenever work to be performed on the freeway traveled way (except the work of installing, maintaining, and removing traffic control devices) is within 1.8 m (6 ft.) of the adjacent traffic lane, the adjacent traffic lane shall be closed.

Work that requires lane or ramp closures shall require notification of the contract manager one week prior to commencing work to arrange for proper notifications of traffic control at specific locations. Specifics will be coordinated or designated by the Contract Manager or his representative. Normal work requires daily notification of the specific work locations planned.

No two consecutive on-ramps or two consecutive off-ramps in the same direction of travel shall be closed concurrently.

Advanced special message signs shall be placed seven (7) days in advance of the ramp closure. The Contractor shall notify the Contract Manager not less than seven (7) calendar days prior to installing the advance ramp closure warning signs.

Lanes and ramps shall be closed only during the hours shown in writing by the Contract Manager. Except work required under said Sections 7-1.08 and 7-1.09, work that interferes with public traffic shall be performed only during the hours shown.

EXHIBIT A

Standard Agreement

Time restrictions for lane or ramp closures will be provided when each task order is issued. It is anticipated that there will be some night work requiring night lane closures.

The number of lanes to be closed must be approved by the Contract Manager.

On multi-lane roadways, a minimum of one paved traffic lane, not less than 3.6 m (12 ft.) wide, shall be open for use by public traffic in each direction of travel.

On 2-lane, two-way roadways, a minimum of one paved traffic lane, not less than 3.6 m (12 ft.) wide, shall be open for use by public traffic. When contract operations are not actively in progress, not less than 2 of these lanes shall be open to public traffic.

On 2-lane, two-way roadways, no work that interferes with public traffic shall be performed between 5:30 a.m. and 9:00 a.m. nor between 3:30 p.m. and 7:00 p.m. except work required under Sections 7-1.08 and 7-1.09 of the Standard Specifications. Times and days may be adjusted at the discretion of the Contract Manager on a case by case basis.

On all roadways, except as otherwise provided, the full width of the traveled way shall be open for use by public traffic on Saturdays, Sundays, and designated legal holidays; after 3:00 p.m. on Fridays and the day preceding designated legal holidays; and when contract operations are not actively in progress. Times and days may be adjusted at the discretion of the Contract Manager on a case by case basis.

Designated legal holidays are: January 1st, the third Monday in January, February 12th, the third Monday in February, March 31st, the last Monday in May, July 4th, the first Monday in September, the 2nd Monday in October, November 11th, Thanksgiving Day (and the following Friday), and December 25th. When a designated legal holiday falls on a Sunday, the following Monday shall be a designated legal holiday. When the designated holiday falls on a Saturday, the proceeding Friday shall be a designated legal holiday.

Minor deviations from the requirements of this section concerning hours of work which do not significantly change the cost of the work may be permitted upon the written request of the Contractor if in the opinion of the Contract Manager, public traffic will be better served and the work expedited. These deviations shall not be adopted by the Contractor until the Contract Manager has approved them in writing.

2.2 TRAFFIC CONTROL SYSTEMS FOR LANE AND RAMP CLOSURES

A traffic control system shall consist of closing traffic lanes and ramps in accordance with the details shown on the Standard Plans, the provisions of Section 12, "Construction Area Traffic Control Devices," of the Standard Specifications, the provisions under "Maintaining Traffic" and "Construction Area Signs" elsewhere in these special provisions, and these special provisions.

EXHIBIT A

Standard Agreement

In the Standard Plans, Note 10 on Standard Plan T10, Note 9 on Standard Plan T10A, Note 5 on Standard Plan T11, Note 6 on Standard Plan T12, Note 5 on Standard Plan T13, and Note 4 on Standard Plan T14 are revised to read:

All traffic cones used for night lane closures shall have reflective cone sleeves as specified in the specifications.

The C16 and C17 designations of the signs shown on the detail "Entrance Ramp Without Turning Pockets" of Standard Plan T14 are amended to designate the signs as R16 and R17, respectively.

The provisions in this section will not relieve the Contractor from the responsibility to provide additional devices or take the measures as may be necessary to comply with the provisions in Section 7-1.09, "Public Safety," of the Standard Specifications.

Each vehicle used to place, maintain and remove components of a traffic control system on multi-lane highways shall be equipped with a Type II flashing arrow sign which shall be in operation when the vehicle is being used for placing, maintaining, or removing the components. Vehicles equipped with Type II flashing arrow sign not involved in placing, maintaining, or removing the components when operated within a stationary type lane closure shall only display the caution display mode. The sign shall be controllable by the operator of the vehicle while the vehicle is in motion. The flashing arrow sign shown on the plans shall not be used on the vehicles which are doing the placing, maintaining, and removing, of components of a traffic control system, and shall be in place before a lane closure requiring its use is completed.

When closing a lane, a barrier vehicle or a shadow vehicle shall be used for the installation of the signs and the flashing arrow sign (FAS) if they can be placed while off the traveled way on the shoulder or median. A shadow vehicle or a barrier with a truck mounted crash cushion (TMCC) shall be used as the protective vehicle during the installation and retrieval of traffic cones and signs in the taper and tangent sections of the lane closure. All devices placed in areas with no shoulders from an open lane require the use of a shadow vehicle for protection.

If any component in the traffic control system is displaced, or ceases to operate or function as specified, from any cause, during the progress of the work, the Contractor shall immediately repair the component to its original condition or replace the component and shall restore the component to its original location.

When lane and ramp closures are made for work periods only, at the end of each work period, all components of the traffic control system, except portable delineators placed along open trenches or excavation adjacent to the traveled way, shall be removed from the

EXHIBIT A

Standard Agreement

traveled way and shoulder. If the Contractor so elects, the components may be stored at selected central locations, approved by the Engineer, within the limits of the highway right of way.

The Contractor's equipment and materials shall not remain in a lane except when the lane is closed to traffic and the lane is being used for contract operations.

No lane obstruction/traffic control will be allowed when the pavement is wet or when atmospheric visibility is less than 800 m (1/2 mile).

At any time a lane is closed for contract work operations in accordance with the provisions of this section and it becomes necessary to clear the lane for use by public traffic due to congested conditions or for any other reason as determined by the Contract Manager, the Contractor shall immediately, upon notice from the Contract Manager, stop active contract operations and commence clearing the lane.

If the Contractor is ordered to clear a lane in accordance with these provisions or the Contractor is unable to begin work at the scheduled time, the Contractor will be compensated for the cost of this interruption to the Contractor's work as follows:

- (a) The Contractor will be granted an extension of time commensurate with the delay in accordance with the provisions of Section 8-1.07, "Liquidated Damages," of the Standard Specifications.
- (b) The Contractor will be compensated for the traffic control costs for the actual working time during which such delay condition exists, but in no case will exceed 8 hours in any one day.
- (c) If the cancellation of work was caused, in any way, by the Contractor due to lack of proper equipment or personnel, or failure to show up at the worksite on time, then no compensation (time extension or hours paid) will be given the Contractor.

Full compensation for providing the traffic control system shown on the plans (including signs and flagging) shall be considered as included in the contract price paid for traffic control per hour and no separate payment will be made therefor. Time shall begin when the lane closure begins, and ends when the closure has been removed from the roadway. Compensation for traffic control will be paid only when the operation affects a traffic lane. A shoulder closure will not justify separate payment for traffic control, and all necessary signs, cones, equipment and labor will be considered as included in the contract unit price.

2.3 PORTABLE CHANGEABLE MESSAGE SIGN

EXHIBIT A

Standard Agreement

The Contractor shall furnish and maintain as necessary for traffic control and upon request of Contract Manager, one portable changeable message sign to be placed at the location specified by the Contract Manager during contract operations. During the progress of work the contractor may be required to relocate the portable changeable message sign as directed by the Contract Manager.

Attention is directed to "Maintaining Traffic" of these special provisions concerning the use of the portable changeable message signs.

Full compensation for providing, maintaining and moving the portable changeable message sign shall be included in the contract unit price bid for traffic control per hour and no other additional compensation will be allowed therefor.

C. SECTION 3.0 - WORK AREA TRAFFIC CONTROL DEVICES

3.1 GENERAL

All traffic-handling equipment and devices, and any flagging used in carrying out the contract work will meet the requirements set forth in Section 12 of the Standard Specifications, with the exception that Section 12-2.02 'Flagging Costs' shall not apply.

Furnishing and installing work area traffic control devices, and flagging shall be considered as a component of the contract unit price for traffic control per hour and no separate or additional compensation will be allowed, except as may be indicated in section 'Traffic Control Systems For Lane And Ramp Closures' of these special provisions.

3.2 CONSTRUCTION AREA SIGNS

Construction area signs shall be furnished, installed, maintained, and removed when no longer required in accordance with the provisions in Section 12 of the Standard Specification.

The term "Construction Area Signs" shall include all temporary signs required for the direction of public traffic through or around the contract work during contract operations. Such signs are shown in or referred to in the current Manual of Traffic Controls.

D. PREQUALIFIED AND TESTED SIGNING AND DELINEATION MATERIALS

The Department maintains a trade name list of approved prequalified and tested signing and delineation materials and products. Approval of prequalified and tested products and materials shall not preclude the Contract Manager from sampling and testing any of the signing and delineation materials or products at any time.

EXHIBIT A

Standard Agreement

Said listing of approved prequalified and tested signing and delineation materials and products cover the following:

MATERIALS and PRODUCTS

- Temporary pavement markers
- Striping and pavement marking tape
- Pavement markers, reflective and non-reflective
- Flexible Class 1 delineators and channelizers
- Railing and barrier delineators
- Sign sheeting and base materials
- Reflective sheeting for barricades
- Reflective sheeting for channelizers
- Reflective sheeting for markers and delineators
- Reflective sheeting for traffic cone sleeves
- Reflective sheeting for barrels and drums

None of the above listed signing and delineation materials and products shall be used in the work unless such material or product is listed on the Department's List of Approved Traffic Products. A Certificate of Compliance shall be furnished as specified in "Certificates of Compliance," of these provisions for signing and delineation materials and products. Said certificate shall also certify that the signing and delineation material or product conforms to the prequalified testing and approval of the Department of Transportation, Division of Traffic Operations and was manufactured in accordance with the approved quality control program.

Materials and products will be considered for addition to said approved prequalified and tested list if the manufacturer of the material or product submits to the Division of Traffic Operations a sample of the material or product. The sample shall be sufficient to permit performance of all required tests. Approval of such materials or products will be dependent upon a determination as to compliance with the specifications and any test the Department may elect to perform.

A list of the approved prequalified and tested signing and delineation materials and products may be obtained from the Contract Manager.

EXHIBIT B

Standard Agreement

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. The State will reimburse the Contractor MONTHLY in arrears as promptly as State fiscal procedures permit upon receipt of itemized invoices in triplicate. Invoices shall reference this Agreement number and shall be submitted to the Contract Manager at the following address:

Department of Transportation
Maintenance/West Bay Region
Attn: Ray Fox
380 Foster City Blvd.
Foster City, CA 94404

- B. The Contractor shall submit a certified copy of all payroll records for verification by the Department's Contract Manager and/or Designee with each invoice. When progress payments are called for, the Contractor shall submit a certified copy of all payroll records for verification for the work completed to date with each invoice. Delinquent or inadequate certified payrolls or other required documents will result in the withholding of payment until such documents are submitted by the Contractor.
- C. The State will honor cash discounts and will make payment to the Contractor in accordance with the cash discount terms specified on the invoice, provided requirements of the Agreement have been met. Discount must be a minimum of one half of 1% of the amount due, but not less than \$25.00.
- D. Itemized invoices shall include this Agreement Number and shall be signed and submitted in triplicate not more frequently than monthly in arrears to:
- E. The State will honor cash discounts and will make payment to the Contractor in accordance with the cash discount terms specified on the invoice, provided requirements of the Agreement have been met. Discount must be a minimum of one half of 1% of the amount due, but not less than \$25.00.
- F. Invoices shall be submitted showing the Department Work Breakdown Structure (WBS) element for each billable hour increment. When Task Orders are negotiated, the appropriate WBS level will be identified by the Contract Manager.

EXHIBIT B

Standard Agreement

2. Budget Contingency Clause

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.
- C. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.
- D. The State has the option to void the Agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds.

3. Cost Limitation

- A. Total amount of this Agreement shall not exceed (amount of Agreement).
- B. It is understood and agreed that this total is an estimate and that the State will pay only for those services actually rendered as authorized by the Agreement manager or his/her designee.

4. Rates

Rates for these services may be found on Attachment 1 of this document.

5. Failure To Pay

Should Cities or Counties fail to pay moneys due the State within 30 days of demand or within such other period as may be agreed between the parties hereto, State, acting through the State Controller, may withhold an equal amount from future apportionment due Cities or Counties from the Highway Users Tax Fund.

6. Inclusive Costs

- A. The cost of employer payments to or on behalf of employees, subsistence, travel, compensation insurance premiums, unemployment contributions, social security taxes, contract bond premiums, and any other taxes or assessments INCLUDING

EXHIBIT B

Standard Agreement

SALES AND USE TAXES required by law or otherwise shall be included in the Agreement rates and no additional allowance will be made thereof, unless separate payment provision should specifically so provide.

- B. Contractors shall make travel and subsistence payments to each worker in compliance with Labor Code sections 1773.1 and 1773.9. Travel and subsistence requirements are available on the Department of Industrial Relations website at <http://www.dir.ca.gov/DLSR/PWD/>.

7. Payroll Records

- A. The Contractor and each Subcontractor shall comply with the following provisions. The Contractor shall be responsible for compliance by his/her subcontractors.
- 1.) Each Contractor and Subcontractor shall keep accurate payroll records and supporting documents as mandated by Section 1776 of the California Labor Code and as defined in Section 16000 of Title 8 of the California Code of Regulations, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor or Subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a.) The information contained in the payroll record is true and correct.
 - b.) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.
 - 2.) The payroll records, enumerated under paragraph (1) above, shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:
 - a.) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b.) A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of the Department, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to the Department, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the Contractor.

EXHIBIT B

Standard Agreement

- c.) The public shall not be given access to certified payroll records by the Contractor. The Contractor is required to forward any requests for certified payrolls to the Contract Manager by both facsimile and regular mail on the business day following receipt of the request.
 - 3.) Each Contractor shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) days after receipt of a written request.
 - 4.) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the Department shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address and social security number. The name and address of the Contractor awarded the Agreement or performing the Agreement shall not be marked or obliterated.
 - 5.) The Contractor shall inform the Department of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
 - 6.) The Contractor or Subcontractor shall have ten (10) days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the Contractor or Subcontractor fails to comply within the ten-day period, he or she shall, as a penalty to the Department, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by the Department from payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.
- B. The penalties specified in paragraph 6 above for noncompliance with the provisions of said Section 1776 will be deducted from any monies due or which may become due to the Contractor. Penalties assessed for failure to submit certified payrolls are forfeitures and not retentions that will be returned to the Contractor.
- C. Payrolls shall contain the full name, address and social security number of each employee, the correct work classification (including apprentices, if applicable), rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. The employee's address and social security number need only appear on the first payroll on which his name appears. The payroll shall be accompanied by a "Statement of Compliance" signed by the employer or employer's agent indicating that the payrolls are correct and complete and that the wage rates contained therein are not less than those required by the Agreement. The "Statement of Compliance" shall be on forms furnished by the Department or on any form with identical wording. Any

EXHIBIT B

Standard Agreement

payroll that does not include the required "Statement of Compliance" will be deemed inadequate and unacceptable. The Contractor shall be responsible for the submission of copies of payrolls of all subcontractors.

- D. The Contractor and each Subcontractor shall preserve their payroll records for a period of three (3) years from the date of completion of the Agreement.
- E. The Contractor shall submit a certified copy of all payroll records for verification by the Department's Contract Manager and/or Designee with each invoice. When progress payments are called for, the Contractor shall submit a certified copy of all payroll records for verification for the work completed to date with each invoice. Delinquent or inadequate certified payrolls or other required documents will result in the withholding of payment until such documents are submitted by the Contractor.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

8. Penalty

- A. The Contractor and any Subcontractor under the Contractor shall comply with Labor Code Sections 1774 and 1775. In accordance with said Section 1775, the Contractor shall forfeit, as a penalty to the Department, not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for such work or craft in which such worker is employed for any public work done under the contract by him or her, or by any subcontractor under him/her, in violation of the provisions of the Labor Code and, in particular, Labor Code Sections 1775 to 1780, inclusively.
- B. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or Subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or Subcontractor in meeting his or her prevailing wage obligations, or a Contractor's willful failure to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or Subcontractor had knowledge of the obligations under the Labor Code. Any contractor that executes and receives a copy of this Agreement is deemed to have knowledge of his or her obligations regarding the Labor Code's prevailing wage requirements. In addition to the penalty and pursuant to Labor Code Section 1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor or Subcontractor.
- C. If a worker employed by a Subcontractor on a public works project is not paid the general prevailing per diem wages by the Subcontractor, the prime Contractor of the

EXHIBIT B

Standard Agreement

project is not liable for any penalties described above unless the prime Contractor had knowledge of that failure of the Subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime Contractor fails to comply with all of the following requirements:

- 1.) The Agreement executed between the Contractor and the Subcontractor for the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1775.5, 1776, 1813 and 1815 of the Labor Code.
 - 2.) The Contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the Subcontractor to the employees by periodic review of the certified payroll records of the subcontractor.
 - 3.) Upon becoming aware of the failure of the Subcontractor to pay his or her workers the specific prevailing rate of wage, the Contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited, to retaining sufficient funds due the Subcontractor for work performed on the public works project.
 - 4.) Prior to making final payment to the Subcontractor for work performed on the public works project, the Contractor shall obtain an affidavit signed under penalty of perjury for the Subcontractor that the Subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.
- D. Pursuant to Section 1775 of the Labor Code, the Department shall notify the Contractor on a public works project within 15 days of receipt of a complaint that a Subcontractor has failed to pay workers the general prevailing rate of per diem wages.
- E. If the Department determines that employees of a Subcontractor were not paid the general prevailing rate of per diem wages and if the Department did not retain sufficient money under the contract to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the Contractor shall withhold an amount of moneys due the Subcontractor sufficient to pay those employees the general prevailing rate of per diem wages if requested by the Department.
- F. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

9. State General Prevailing Wage Rates

- A. The Contractor agrees to comply with all of the applicable provisions of the Labor Code including, those provisions requiring the payment of not less than the general

EXHIBIT B

Standard Agreement

prevailing rate of wages. The Contractor further agrees to the penalties and forfeitures provided in said Code in the event a violation of any of the provisions occurs in the execution of this Agreement.

- B. Pursuant to Section 1771.5 of the Labor Code, not less than the general prevailing wage rate of per diem wages and the general prevailing rate of per diem wages for holiday and overtime work for work of a similar character in the county in which the work is to be performed shall be paid to all workers employed on this Agreement, if this Agreement is for:
 - 1.) More than \$25,000 for public works construction or,
 - 2.) More than \$15,000 for the alteration, demolition, installation, repair, or maintenance of public works.
- C Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

10. State Prevailing Wage Rate Determinations

- A. The General Prevailing Wage Rate Determinations applicable to the project are available and on file with the Department's Regional/District Labor Compliance Office. These wage rate determinations are made a specific part of this contract by reference pursuant to Labor Code Section 1773.2. Any special wage rate determinations applicable to this project are attached.
- B. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at:
<http://www.dir.ca.gov/>
- C. After award of the Agreement, and prior to commencing work, all applicable General Prevailing Wage Rate Determinations are to be obtained by the Contractor from the Department's District/Regional Labor Compliance Officer. These wage rate determinations are to be posted by the Contractor at the job site in accordance with Section 1773.2 of the California Labor Code.
- D. Questions pertaining to predetermined wage rates should be directed to the Department's District Labor Compliance Officer, Susan Samadian at (510) 286-5185.

11. Hours of Labor

- A. Eight (8) hours labor constitutes a legal day's work. The Contractor shall forfeit, as a penalty to the State of California, twenty-five dollars (\$25.00) for each worker employed in the execution of the Agreement by the Contractor or any Subcontractor under the Contractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the Labor Code, and in particular Sections 1810 to 1815 thereof, inclusive, except that work performed by

EXHIBIT B

Standard Agreement

employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half times the basic rate of pay, as provided in Section 1815.

- B. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this clause.

12. Employment of Apprentices

- A. Where either the prime contract or the subcontract exceeds \$30,000, the Contractor and any subcontractors under him or her shall comply with all applicable requirements of Labor Code sections 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
- B. Contractors and subcontractors are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, Contractors and subcontractors are advised to contact the State Division of Apprenticeship Standards, P. O. Box 420603, San Francisco, California 94142-0603, or one of its branch offices, for additional information regarding the employment of apprentices and for the specific journey-to-apprentice ratios for the contract work. The prime Contractor is responsible for all subcontractors' compliance with these requirements. Penalties are specified in Labor Code Section 1777.7.
- C. Any subcontract entered into as a result of this contract shall contain all of the provisions of this article.

EXHIBIT D

Standard Agreement

SPECIAL TERMS AND CONDITIONS

1. Default

If, after award and execution of the Agreement, the contractor defaults, the Agreement may be terminated for non-satisfactory performance. Contractor may be assessed damages in the amount of \$500 for administrative costs. Additionally, the contractor may be liable to the State for the difference between the contractor's original bid price and the actual cost of performing the work by the second low bidder or by another contractor.

2. Right To Terminate

- A. The State reserves the right to terminate this Agreement subject to 30 days written notice to the Contractor. Contractor may submit a written request to terminate this Agreement only if the State should substantially fail to perform its responsibilities as provided herein.
- B. However, the Agreement can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the Agreement. In this instance, the Agreement termination shall be effective as of the date indicated on the State's notification to the Contractor.
- C. This Agreement may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental authority.
- D. In the event that the total Agreement amount is expended prior to the expiration date, the State may, at its discretion, terminate this Agreement with 30 days notice to contractor.

3. Retention of Records/Audits

- A. For the purpose of determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et. seq., when applicable, and other matters connected with the performance of the contract pursuant to Government Code Section 8546.7, the Contractor, Subcontractors and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The State, the State Auditor, FHWA, or any duly authorized representative of the Federal government

EXHIBIT D Standard Agreement

having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the Contractor that are pertinent to the contract for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

- B. Any subcontract entered into as a result of this Agreement shall contain all the provisions of this clause.

4. Subcontractors

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor.
- B. The contractor shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the State's Contract Manager.
- C. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- D. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the State.
- E. Any substitution of subcontractors must be approved in writing by the Department's Contract Manager in advance of assigning work to a substitute subcontractor.

5. Subcontracting Provisions/List

- A. Attention is directed to Section 8.1.01, "Subcontracting", of the July, 1999 Standard Specifications and these special provisions.
- B. The Contractor will be permitted to subcontract portions of the work included in any lump sum item for work covered by these special provisions without the entire item being considered as subcontracted.
- C. The "Subletting and Subcontracting Fair Practices Act" (Public Contract Code Section 4100-4113, inclusive) requires subcontractors on public works or improvement projects to be listed on the Subcontracting List in the Bid Proposal. The act also prohibits the substitution of subcontractors, except as therein authorized; and provides for penalties for violations of the Act. Bidders are cautioned that this listing requirement is in

EXHIBIT D

Standard Agreement

addition to any requirement to provide a list of Disadvantaged Business subcontractors after the opening of proposals. Each bidder intending to subcontract a portion of the work shall list on the Subcontracting List:

- 1) The name and the location of the place of business of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of one percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.
- 2) The portion of the work which will be done by each such subcontractor. Only one subcontractor shall be listed for each such portion.

- A. A sheet for listing subcontractors, as required by the Subletting and Subcontracting Fair Practices Act, is included in the Bid Proposal.

6. Employment of undocumented aliens

By signing this contract, the contractor swears or affirms that it has not, in the preceding five years, been convicted of violating a state or federal law respecting the employment of undocumented aliens.

7. Bonds

The Contractor shall furnish bonds as required which are to be executed by an admitted surety insurer. Cash deposits shall not be accepted in lieu of bonds. Alterations, extensions of time, extra and additional work, and other authorized Agreement changes may be made without securing consent of the sureties on said bonds.

8. Disabled Veterans Business Enterprise (DVBE) (With Goals)

- A. The Contractor has complied with the requirements of Public Contract Code Section 10115 et seq. DVBE goals achieved are expressed as a percentage of the estimated dollar value of this Agreement, and are identified on the STD. 840, **Documentation Of Disabled Veteran Business Enterprise Program requirements** attached to and made a part hereof.

EXHIBIT D Standard Agreement

- B. The following goals are the Contractor's commitment set forth in this Agreement based upon the estimated total dollar amount to be expended:

\$_____ (____%) of work for DVBE(s).

- C. Substitutions of DVBE(s). Contractor must use the DVBE subcontractors and/or suppliers contained in the solicitation response to the State, unless a substitution has been pre-approved in writing by the Caltrans Contract Manager. No substitutions are to be made without receipt of prior written approval from the Contract Manager. Failure to obtain approval of substitute Contractors before work is performed, supplies are delivered or services are rendered may result in payment being denied by Caltrans.

- D. At a minimum, the Contractor's substitution request must include:

- 1) A written explanation of the substitution reason; and if applicable, the Contractor must also include the reason a non-DVBE subcontractor is proposed for use;
- 2) A written description of the substitute business enterprise; include their business status as a sole proprietorship, partnership, corporation or other entity, and the firm's DVBE certification status, if any;
- 3) A written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall Agreement that the substitute firm will perform.

- E. **Prior** to the approval of the prime contractor's substitution request, the **Contract Manager** must give written notice to subcontractor being substituted by the prime contractor. A copy of the notice sent by the Contract Manager must be sent to the Contracts office. The notice must:

- 1) Give the reason the prime contractor is requesting substitution of the listed subcontractor;
- 2) Give the listed subcontractor five working days within which to submit written objections to the Contracts Office and copies to the Contract Manager;
- 3) Notify the subcontractor that if a written objection is not received or received past the due date, such failure will constitute consent to the substitution; and
- 4) The notice shall be served by certified or registered mail to the last known address of the listed subcontractor.

- F. If written objections are filed by the listed subcontractor, the Contracts Office, will render a written decision. The Contracts Office shall give written notice of at least five working days to the listed subcontractor of a hearing by the Department on the prime contractor's request for substitution.

EXHIBIT D

Standard Agreement

- G. The Department may consent to the substitution of another subcontractor in any of the following situations:
- 1) When the Subcontractor listed in the solicitation bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written Agreement, when that written Agreement based upon the general terms, conditions, plans and specifications for the project involved or the terms of that subcontractor's written bid is presented to the subcontractor by the prime contractor.
 - 2) When the listed Subcontractor becomes bankrupt or insolvent, or goes out of business.
 - 3) When the listed Subcontractor fails or refuses to perform his or her subcontract.
 - 4) When the listed Subcontractor fails or refuses to meet the bond requirements, if any of the prime contractor.
 - 5) When the prime Contractor demonstrates to the Department, or its duly authorized officer, that the name of the Subcontractor was listed as the result of an inadvertent clerical error.
 - 6) When the listed Subcontractor is not licensed pursuant to any applicable licensing requirement of any regulatory agency of the State of California.
 - 7) When the Department or the Contract Manager determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, Agreement requirements or that the Subcontractor is substantially delaying or disrupting the progress of the work.
- H. The request for substitution and the State's approval or disapproval is not to be construed as an excuse for non-compliance with any other provision of law, including but not limited to the subletting and subcontracting fair practices act (Section 4100 et seq. of the Public Contract Code) or any other Agreement requirements relating to the substitution of subcontractors. Failure to adhere to the DVBE participation in the performance of the Agreement may be cause for Agreement termination and recovery of damages under the rights and remedies due the state.
- I. Any DVBE firm acting/working under subcontract must be responsible for providing materials, supplies, equipment, or services and must carry out its responsibility by actually performing, managing, or supervising the work involved that is normal for its business services and functions.
- J. The Contractor shall maintain records of all subcontracts entered into with DVBE subcontractors including records of materials purchased from DVBE suppliers. Such records shall show the name and address of each DVBE subcontractor or

EXHIBIT D

Standard Agreement

supplier and the total dollar amount paid to each one. Upon completion of the Agreement, a summary of these records shall be prepared and certified correct by the Contractor or his authorized representative and the summary shall be furnished to the State's Contract Manager.

9. Air or Water Pollution Violation

Under the laws of the State of California, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

EXHIBIT E

Standard Agreement

ADDITIONAL PROVISIONS

1. Liability Insurance Provisions

- A. Contractor is responsible for any deductible or self-insured retention contained within the insurance program.
- B. The Insurance policy shall contain a provision that states that coverage will not be cancelled without 30 days prior written notice to the State.
- C. Coverage must be in force for the complete term of this Agreement. If insurance expires during the term of this Agreement, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. This new insurance must still meet the terms of this Agreement.
- D. In the event contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of the Agreement.
- E. Any insurance required to be carried shall be primary, and not excess, to any other insurance carried by the State.
- F. The State will not be responsible for any premiums or assessments on the policy.
- G. The State of California, its officers, agents, employees, and servants shall be included as additional insured, but only with respect to work performed for the State of California under this Agreement. The insurance carrier should provide an endorsement for the additional insured statement.

1. Commercial General Liability

Contractor shall maintain general liability with limits of not less than **\$1,000,000** per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability.

2. Automobile Liability

Contractor shall maintain motor vehicle liability with limits of not less than \$(insert limit of insurance) per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles. (Auto Liability coverage is needed only if a vehicle is used in the Scope of Work stated in the Agreement.)

EXHIBIT E

Standard Agreement

3. Workers' Compensation/Employer's Liability

Contractor shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement, including special coverage extensions where applicable. Employer's liability limits of **\$1,000,000** per incident shall be required.

2. Licenses and Permits

- A. The contractor shall be properly licensed in accordance with the laws of the State of California and shall possess a Class A, C-12, C32 or applicable license.
- B. The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement.
- C. If you are a Contractor located within the State of California, a business license from the city/county in which you are headquartered is necessary, however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the **Department** a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that state.
- D. In the event, any license(s) and/or permit(s) expire at any time during the term of this Agreement, Contractor agrees to provide agency a copy of the renewed license(s) and/or permit(s) within 30 days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

3. Licensed Contractor Standards for Quality of Work

- A. Licensed contractors must observe professional standards for quality of work or the California Contractors State License Board will invoke disciplinary action.
- B. Notice is hereby given that certain actions by a Contractor, including, but not limited to the following, constitute grounds for disciplinary action once the State has notified the license board of all violations:
 - 1) A willful departure from plans and specifications or disregard of trade standards for good and workmanlike construction in any material respect that might prejudice the Department of Transportation, owner of the property upon which you perform work (Bus. & Prof. Code, 7109).

EXHIBIT E

Standard Agreement

- 2) The failure to observe and comply with all of the applicable labor laws (Bus. & Prof. Code 7110).
- 3) Material failure to complete this Agreement (Bus. & Prof. Code 7113).
- C. Should the State determine that the work or materials provided vary materially from the specifications, or, that defective work when completed was not performed in a workmanlike manner, then the Contractor warrants that he/she shall perform all necessary repairs, replacement and corrections needed to restore the property according to the contract plans and specifications, all at no further or additional cost to the State.

4. Audit Review Procedures

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement shall be reviewed by the Chairperson of the Audit Review Committee (ARC). The ARC will consist of the Deputy Director, Audits & Investigations (Chairperson); Deputy Director of the functional Program Area; the Chief Counsel, Legal Division, or their designated alternates; and if the Department chooses, two representatives of the Department's choosing, from private industry. The two representatives from private industry will be advisory in nature only and will not have voting rights. Additional members or their alternates may serve on the ARC.
- B. Not later than thirty (30) days after issuance of the final audit report, the Contractor may request a review by the ARC of unresolved audit issues. The request for review will be submitted in writing to the Chairperson of the ARC. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the ARC will be scheduled if the Chairperson concurs that further review is warranted. After the meeting, the ARC will make recommendations to the appropriate Chief Deputy Director. The Chief Deputy Director will make the final decision for the Department. The final decision will be made within three (3) months of receipt of the notification of dispute.
- C. Neither the pendency of a dispute nor its consideration by Caltrans will excuse the Contractor from full and timely performance, in accordance with the terms of this Agreement.

5. Laws to be Observed

The Contractor shall keep fully informed of all existing and future state and federal laws and county, and municipal ordinances and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or

EXHIBIT E

Standard Agreement

tribunals having any jurisdiction or authority over the same. Contractor shall at all times observe and comply with, and shall cause all agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority over the work. The Contractor shall protect and indemnify the State of California and all officers and employees thereof connected with the work against any claim, injury, or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor, a subcontractor, or an employee. If any discrepancy or inconsistency is discovered in the plans, drawings, specification, or Agreement for the work in relation to any such law, ordinance, regulation, order, or decree, the Contractor shall immediately report the same to the Contract Manager in writing.

6. Specific Statutory Reference

Any reference to certain statutes in this Agreement shall not relieve the Contractor from the responsibility of complying with all other statutes applicable to the service, work, or rental to be furnished thereunder.

7. Equipment Indemnification

A. The Contractor shall indemnify the state against all loss and damage to the Contractor's property or equipment during its use under this Agreement and shall at the Contractor's own expense maintain such fire, theft, liability or other insurance as deemed necessary for this protection. The Contractor assumes all responsibility which may be imposed by law for property damage or personal injuries caused by defective equipment furnished under this Agreement or by operations of the Contractor or the Contractor's employees under this Agreement.

B. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this article.

8. Non-Solicitation

The Contractor warrants, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained or contracted by the Contractor for the purpose of securing business. For breach or violation of this warranty, the state shall have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

EXHIBIT E

Standard Agreement

9. Interfacing with Pedestrian Vehicular Traffic

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Department has determined that within such areas as are within the limits of the project and are open to public traffic, the Contractor shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code. The Contractor shall take all necessary precautions for safe operations of the Contractor's equipment and the protection of the public from injury and damage from such property.

10. Force Majeure

Except for defaults of subcontractors, neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include but shall not be limited to acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact. If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default of its subcontractor, arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

11. Notice of Potential Claim

- A. The Contractor shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the Engineer/Contract Manager, including failure or refusal to issue a change order, or for the happening of any event, thing, occurrence, or other cause, unless he shall have given the Engineer/Contract Manager due written notice of potential claim as hereinafter specified. Compliance with this section 9-1.04 of the July 1999, Standard Specifications, herein after "Standard Specifications," shall not be a prerequisite as to matters within the scope of the protest provisions in Standard Specifications, section 4-1.03, "Changes," or section 8-1.06, "Time of Completion," or the notice provisions in Standard Specifications, section 5-1.116, "Differing Site Conditions," or Standard Specifications, section 8-1.07, "Liquidated Damages," or Standard Specifications, section 8-1.10, "Utility and Non-Highway Facilities," nor to any claim which is based on differences in measurements or errors of computation as to Agreement quantities.
- B. The written notice of potential claim shall be submitted to the Engineer/Contract Manager prior to the time that the Contractor performs the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the Engineer, or in all other cases within 15 days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim.

EXHIBIT E

Standard Agreement

- C. The written notice of potential claim shall be submitted on Form CEM-6201 furnished by the Department and shall be certified with reference to the California False Claims Act, Government Code Sections 12650 - 12655. The notice shall set forth the reasons for which the Contractor believes additional compensation will or may be due and the nature of the costs involved. Unless the amount of the potential claim has been stated in the written notice, the Contractor shall, within 15 days of submitting said notice, furnish an estimate of the cost of the affected work and impacts, if any, on project completion. Said estimate of costs may be changed or updated by the Contractor when conditions have changed. When the affected work is completed, the Contractor shall submit substantiation of his actual costs. Failure to do so shall be sufficient cause for denial of any claim subsequently filed on the basis of said notice of potential claim.
- D. It is the intention of this Standard Specifications, Section 9-1.04 that differences between the parties arising under and by virtue of the Agreement be brought to the attention of the Engineer/Contract Manager at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The Contractor hereby agrees that he shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was filed.
- E. Should the Contractor, in connection with or subsequent to the assertion of a potential claim, request inspection and copying of documents or records in the possession of the Department that pertain to the potential claim, Contractor shall make its records of the project, as deemed by the Department to be pertinent to the potential claim, available to the Department for inspection and copying.

SMALL BUSINESS SUBCONTRACTING PREFERENCE FORM FOR NON-SMALL BUSINESS BIDDERS**ATTACHMENT 5****ADM 3019 (STATE FUNDED CONTRACTS) (Rev.6/05) Page 1 of 1**

Agreement No. 04A2606

BIDDER/PROPOSER BUSINESS NAME	BIDDER/PROPOSER BUSINESS ADDRESS		
CONTACT PERSON	BUSINESS PHONE ()		
NAME OF PERSON SUBMITTING BID/PROPOSAL	SIGNATURE OF BIDDER/PROPOSER		DATE

IMPORTANT: 1) Identify all Certified Small Business firms being claimed for credit. 2) List names of all Certified Small Business subcontractors, regardless of their tier or respective items of work, 3) Attach a copy of the Certified Small Business subcontractor's quote to this form. The Certified Small Business' quote will serve as written confirmation that the Certified Small Business is participating in the contract. 4)Ownership information required for reporting requirements.

LIST CERTIFIED SMALL BUSINESS FIRM(s)	Phone Number (Area Code)	Item of Work, Service, or Materials Supplied	Certification Number/ DGS Reference Number	Business Type	Dollar Amount Claimed**	Percentage of \$ Value Claimed
A CERTIFIED SMALL BUSINESS PRIME Bidder/Proposer Participation						
B. Certified Small Business Subcontractor/Supplier Name and Address						
TOTAL PARTICIPATION CLAIMED					\$	%

Small Business must be certified by California Department of General Services by the bid opening or RFP/SOQ due date. Self-certification is NOT acceptable. **Important:** Names of First Tier Certified Small Business Subcontractors and their respective item(s) of work listed above shall be consistent with the names and items of work in the "List of Subcontractors" submitted with your bid/proposal. **For on-call contracts, the dollar amount represents estimated dollar value claimed.

FOR CALTRANS USE ONLY

TOTAL CERTIFIED SMALL BUSINESS PARTICIPATION _____%		
CERTIFIED SMALL BUSINESS VERIFICATION COMPLETED BY:		
NAME:	SIGNATURE:	DATE:

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**CALIFORNIA DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)
PARTICIPATION REQUIREMENTS**

(Revision Date 02/02/2004)

Please read the requirements and instructions carefully before you begin.

AUTHORITY. The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for state Agreements is established in Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.60 et seq.

The **minimum DVBE participation percentage is 3% for this solicitation.**

INTRODUCTION. The bidder/proposer must complete and document at least one of the options (A, B or C) in this document to comply with this solicitation's DVBE program requirements. Bids or proposals (hereafter called "bids") that **fail to fully document one of the DVBE program requirement options shall be considered non-responsive and ineligible for award.**

All information submitted by the bidder/proposer to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, with this information, in accordance with the requirements of the PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by the CCR §1896.80. Contractors found to be in violation of certain provisions may be subject to loss of certification, penalties and contract cancellation.

Only State of California, Office of Small Business and DVBE Certification, certified DVBEs who are domiciled in the State of California and who perform a commercially useful function relevant to this solicitation, may be used to satisfy the DVBE program requirements. Effective January 1, 2004, the certified DVBE companies must perform a **commercially useful function** to be eligible for award. The criteria and definition for performing a **"Commercially Useful Function"** are contained on page 6, entitled **Resources & Information**. Bidders and proposers are encouraged to verify each DVBE subcontractor's/supplier's certification with the Office of Small Business and DVBE Certification Section to ensure DVBE eligibility.

NOTE: A common error bidders/proposers make is to state that no subcontractors are needed and goals are not applicable offering that all the work can be done by the bidder/proposer with its own resources. Bidder/proposers are warned that this is **not** an option if your bid is to be deemed responsive.

PLEASE READ ALL INSTRUCTIONS CAREFULLY. These instructions contain information about the DVBE program requirements, bidder/proposer responsibilities, and requirements for performing and documenting each of the three available options (Option A, Option B, or Option C) as detailed below. Bidder/proposers are responsible for thorough review and compliance with these instructions. Complete and document your option selection on the attached form, STD. 840, Documentation of Disabled Veteran Business Enterprise Program Requirements.

NOTE: The attached STD. 840 form replaces the previously used form ADM-227S.

To meet the DVBE program requirements, bidder/proposer must complete and fully document at least one of the following compliance options:

Option A - Commitment to full DVBE participation - For a bidder/proposer who is a DVBE or who is able to meet the commitment to use certified DVBE(s) to fulfill the full DVBE participation goal.

Option B - Good Faith Effort - For a bidder/proposer documenting its completed effort, made prior to the bid due date, to obtain DVBE participation that may result in partial or no DVBE participation.

Option C - Business Utilization Plan - For a bidder/proposer using an annual plan (subject to approval) to satisfy DVBE participation requirements. Applies only to solicitations for goods and Information Technology.

OPTION A – COMMITMENT -- Commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 or A2. Bidder/proposer must document DVBE participation commitment by completing and submitting the attached STD. 840. Failure to complete and submit STD. 840 (Page 1) as instructed shall render your bid non-responsive in which case the **bid may be rejected**.

Prior to the award of the Agreement, the bidder/proposer must provide a written confirmation from each DVBE that it is participating in the Agreement as provided in the bidder/proposer's STD. 840 (i.e. DVBE's bid/proposal/quote is acceptable). The written confirmation will include the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, and total amount to be paid to the DVBE. The written confirmations are to be attached to the STD. 840. If further verification is necessary, the state will obtain additional information to verify the above requirements.

Method A1. Certified DVBE bidder/proposer:

- a. Commit to performing at least 3% of the Agreement's bid amount with your firm or in combination with another DVBE(s).
- b. Document DVBE participation on STD. 840 (Page 1) and attach a copy of all applicable certifications.
- c. A DVBE bidder/proposer working in combination with other DVBEs shall submit proof of its commitment by submitting a written confirmation of the DVBE(s) identified in its bid on the STD. 840. Failure to submit the written confirmation as specified may be grounds for bid rejection.

Method A2. Non-DVBE bidder/proposer:

- a. Commit to using certified DVBE(s) for at least 3% of the bid amount.
- b. When a bidder/proposer commits to less than the required 3% DVBE participation or its commitment may fall below 3%, then Option B, Good Faith Effort must be completed in addition to Option A, Commitment.
- c. Document DVBE participation on STD. 840 (Page 1) and attach a copy of each DVBE's certification.
- d. Prior to Agreement award, a bidder/proposer is to submit proof of their commitment by submitting a written confirmation of each DVBE identified in its' bid's STD. 840. The Department of Transportation official will contact each listed DVBE, by mail, fax or telephone, for verification of the bidder/proposer's submitted DVBE information. Failure to submit the written confirmation as specified may be grounds for bid rejection.

OPTION B – GOOD FAITH EFFORT (GFE) performance and documentation requirements must be completely satisfied **prior to bid submission** if you are unable to obtain and commit to the full DVBE participation percentage goal (Option A) and do not exercise Option C. Perform and document the following Steps 1 through 5 on both pages of the attached STD. 840 form. Failure to perform and document GFE Steps 1 through 5 as instructed, which includes properly completing and submitting both pages of STD. 840, shall result in your bid being deemed non-responsive in which case the bid may be rejected. Step 3, Advertisement, is required unless specifically waived by the Department for this solicitation due to imposed time limits.

Step 1: Awarding Department (PCC §10115.2[b][1])

Contact the Department of Transportation, Civil Rights, Business Enterprise Program (BEP) by accessing its' web site at <http://www.dot.ca.gov/hq/bep> for assistance in identifying DVBEs. You may also fax your request for assistance to Civil Rights, at (916) 324-8760, or you may contact the Department's DVBE Specialist at (916) 324-8384. You may document this contact and describe the results on STD. 840 (Page 2). Be sure to include a copy of your dated response or BEP web page in your Good Faith Effort documentation to show compliance with Step 1.

Step 2: Other State and Federal Agencies, and Local Organizations (PCC §10115.2[b][2])

STATE: Contact the Department of General Services, Procurement Division (DGS-PD), Office of Small Business and DVBE Certification (OSDC), to obtain a list of certified DVBEs by telephone at (916) 322-5060 for the 24-hour automated telephone system or (916) 375-4940 for the receptionist during normal business hours. This information can also be obtained by searching the online database at <http://www.pd.dgs.ca.gov/smbus>. Begin by selecting Certified Firm Inquiry Services and then search by using either the Keyword Search or the Standard Query options. You must fully document this contact and describe the results on STD. 840 (Page 2). Attach the results (screen print) of the "Certified Firm Listing", the "Certified Firm Detailed Information" page(s), or the cover page of the "Directory of Certified DVBEs" to document your contact with DGS.

FEDERAL: Search the Central Contractor Registration (CCR) on-line database (previously Pro-Net) at <http://www.ccr.gov/> to identify potential DVBEs and click on the "Dynamic Small Business Search" button. All of the search options and information that existed in PRO-Net will now be found at the CCR Dynamic Small Business Search site. First time users should click on the "help" button for detailed instructions. You must fully document this contact and describe the results on STD. 840 (Page 2). Attach the results (screen print) of the Web search page, and any other documents to document your contact with the Small Business Administration (SBA).

LOCAL: Contact at least one local DVBE organization to identify DVBEs. For a list of local DVBE organizations, please refer to the DVBE Resource Packet that may be accessed online (<http://www.pd.dgs.ca.gov/smbus> - select "DVBE Resource Packet") or obtain a hardcopy by requesting it from DGS-PD Office of Small Business and DVBE Outreach and Education (see the Resources & Information page). You must fully document your contact with local DVBE organizations and describe the results on STD. 840 (Page 2). Attach documents to support your contacts with the local organizations, indicating the date of contact, the nature of the request, and the results of the contacts. (Letters, emails, fax transmittals along with proof of submittals, are acceptable.)

Step 3: Advertisements (PCC §10115.2[b][3])

Advertisements are mandatory unless waived by the Department of Transportation.

☒ The requirement to advertise for the purpose of identifying potential DVBEs is waived.

CONTENT REQUIREMENTS: Include all of the following in your advertisement(s): (1) company name; (2) contact name; (3) complete address; (4) telephone and facsimile numbers (if applicable); (5) e-mail address (if applicable); (6) the state's solicitation number; (7) description of goods and/or services for which the state is soliciting; (8) the location(s) of work to be performed; (9) the State's bid due date; (10) and your due date for receiving DVBE responses.

HOW MANY & WHERE TO PUBLISH: Bidder/proposers must publish at a minimum, two (2) ads: one (1) each in a trade paper and a DVBE focus paper unless the paper has a dual purpose (fulfilling both trade and focus requirements as defined in CCR, Title 2, section 1896.61(k)), in which case one (1) ad is acceptable in lieu of the two mentioned above. Please see the DVBE Resource Packet for a list of acceptable publications.

WHEN: Pursuant to CCR section 1896.63(2), advertisements must be published after the solicitation's release date and at least 14 days prior to the bid due date, unless a different time period is expressly established in this solicitation.

DOCUMENT & SUBMIT: On STD. 840 (Page 2), document the publication name(s) in which you published advertisement(s), the contact name and phone number, and date of publication. Include a copy of the advertisement(s) and copy of the publication affidavit(s) with your bid/proposal.

Step 4: Invitations to Participate (PCC §10115.2[b][4])

WHO: Invite (solicit) DVBEs who can provide relevant goods and/or services to this solicitation to subcontract with you. Conducting Steps 1 through 3 produces a list of DVBEs from which you choose potential DVBEs subcontractors/suppliers to contact. Bidder/proposers are advised to contact as many DVBEs (who provide relevant goods and/or services in the applicable location(s)) as possible. **Non-California-certified DVBEs are not eligible** -- please refer those DVBEs to the OSDC to learn about certification (see the Resources & Information page for contact information).

FOR WHAT: Solicit DVBEs for goods and/or services relevant to the Department's solicitation. This allows DVBEs to respond whether they can or cannot provide any goods or services related to the solicitation, and provides a bidder/proposer with responses for consideration. The State encourages bidder/proposers to avoid making a predetermination that no DVBEs are able to perform or no portions of the work can be subcontracted, without first contacting and soliciting participation from them.

HOW TO INVITE & CONTENT REQUIREMENTS: **Written invitations are required.** At a minimum, invitations must contain all of the following: (1) company name; (2) contact name; (3) complete address; (4) telephone and facsimile numbers (if applicable); (5) e-mail address (if applicable); (6) the state's solicitation number; (7) description of goods and/or services for which the state is soliciting; (8) the location(s) of work to be performed; (9) the State's bid due date; (10) and your due date for receiving DVBE responses.

WHEN: Provide DVBEs with a reasonable time period to receive and respond to your invitation, and to be considered by you for participation as described in Section b (below), prior to your bid/proposal submission.

DOCUMENT & SUBMIT: Bidder/proposers must document the completed contacts on STD. 840 (Page 1), Section A. Attach additional copies of STD. 840A as necessary to list your DVBE contacts. You are required to attach a copy of: (1) each invitation or offer sent by mail, fax or e-mail; and (2) confirmation of transmittal or delivery. Your bid/proposal shall be considered non-responsive if it fails to include copies of the written invitations and delivery confirmations.

Step 5: Consider all responding DVBEs for Agreement participation.

CCR §1896.61 (d) "The term 'considered' as used in section 10115.2(b)(5) of the Public Contract Code means that the bidder made a bona fide effort to carry out all actions with regard to DVBEs specified in section 10115.2(b)(1-5)(except section 10115.2(b)(3) of the Public Contract Code when the awarding department has waived the advertising requirements of section 10115.2(b)(3) of the Public Contract Code in the solicitation), and reviewed DVBE responses and carefully evaluated and documented the reasons for not selecting such potential subcontractors. The bidder must consider all responding subcontractors for a specified service based upon the same information and evaluation criteria."

Consideration must be based on business needs for this Agreement and the same evaluation criteria must be applied to each potential DVBE subcontractor/supplier offering the same goods and services. You must document using STD. 840 (Page 1), Section A, any firm(s) selected for participation; or, if not selected, the reason for non-selection. Attach additional copies of STD. 840A as necessary to list all of your DVBE contacts.

OPTION C – THE DVBE BUSINESS UTILIZATION PLAN (BUP) option permits bidder/proposers to submit an approved DVBE BUP to satisfy DVBE participation solicitation requirements up to 3%. **DVBE BUPs apply only to solicitations for goods and Information Technology (IT) goods and services.** DVBE BUPs are a company's commitment to expend a minimum of 3% of its total statewide Agreement dollars with DVBEs -- this percentage is based on all of its Agreements in the State, not just those with the State. DVBE BUPs must be submitted to and approved by the DGS-PD prior to the bid due date. Please call the DGS-PD, Office of Small Business and DVBE Outreach and Education for assistance. Bidder/proposers choosing this option must properly complete and submit STD. 840 (Page 1) and include a copy of its approval letter with the bid; failure to submit these documents shall render your bid non-responsive, in which case the bid may be rejected.

RESOURCES AND INFORMATION

For assistance in preparing a responsive participation document, **contact the Department of Transportation contracting official.** In accordance with Public Contract Code Section 10115.2(b)(3), bidder/proposers must advertise in trade and focus publications unless the requirement is waived. The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidder/proposers in meeting these Agreement requirements. To obtain this list, please contact the DGS-PD Office of Small Business and DVBE Outreach and Education and request the "DVBE Resource Packet."

U.S. Small Business Administration (SBA): Use the Central Contractor Registration (CCR) on-line database.
Internet contact only –Database: <http://www.ccr.gov/>.

FOR:

Service-Disabled Veteran-owned businesses in California (Remember to verify each DVBE's California certification.)

Local Organizations (see the DVBE Resource Packet available from DGS-PD DVBE Program Section listed below)

FOR:

List of potential DVBE subcontractors

DGS-PD Office of Small Business and DVBE Certification (OSDC)
707 Third Street, Room 400, West Sacramento, CA 95605
Website: <http://www.pd.dgs.ca.gov/smbus>
24-hour automated information & document requests: (916) 322-5060
Receptionist: (916) 375-4940
Fax: (916) 375-4950

FOR:

- Directory of Certified DVBEs
- Certification Applications
- Certification Information
- Certification Status, Concerns

DGS-PD Office of Small Business and DVBE Outreach and Education

707 Third Street, 2nd Floor, West Sacramento, CA 95605
Voice, 8 am—5 pm: (800) 559-5529
Fax: (916) 375-4597

FOR:

- DVBE Program Participation Requirements
- DVBE Program Info. and Statewide Policy
- DVBE Resource Packet
- DVBE Business Utilization Plan
- Small Business/DVBE Advocates

ADVERTISEMENT FORMAT EXAMPLE:

This example offers a suggested format that includes required information outlined in Option B, Good Faith Effort, Step 3. You can substitute the applicable information for the bolded, italicized words.

DVBEs are invited to participate as a potential subcontractor/supplier to perform a commercially useful function specific to

***DGS' IFB No. 12345 for
fencing materials in Chowchilla.
DVBE responses due to me 1/1/02;
Bids due to the State 1/15/02.***

Contact: ***ABC Company
Jane Doe, General Manager
123 Main Street, Sacramento, CA
95814***

voice: ***555/555-5555***; fax: ***555/555-5556***
or e-mail: ***jane.doe@abcco.com***

Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l): The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of Section 1896.61(f); is certified in accordance with Section 1896.70; and provides services or goods that contribute to the fulfillment of the Agreement requirements by performing a commercially useful function.

As defined in MVC §999, a person or an entity is deemed to perform a "commercially useful function" if a person or entity does **all** of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out the obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and functions.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

Substitution of Proposed DVBE

After Agreement award, the successful Contractor must use the DVBE or non-DVBE Subcontractors and/or Suppliers contained in the solicitation response to the State, unless a substitution has been pre-approved in writing by the Department of Transportation's (Department) Contract Manager. No substitutions are to be made without receipt of prior written approval from the Department's Contract Manager. Failure to obtain approval of substitute Contractors before work is performed, supplies are delivered or services are rendered may result in payment being denied by the Department.

At a minimum, the Contractor's substitution request must include

- a) a written explanation of the substitution reason; and if applicable, the Contractor must also include the reason a non-DVBE Subcontractor is proposed for use.
- b) a written description of the substitute business enterprise, include their business status as a:
 - sole proprietorship, partnership, corporation or other entity, and
 - the firm's DVBE certification status, if any.
- c) a written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall Agreement that the substitute firm will perform.

Prior to the approval of the prime Contractor's substitution request, the Department's Contract Manager must give written notice to Subcontractor being substituted by the prime Contractor. A copy of the notice sent by the Department's Contract Manager must be sent to the Department's Contracts Office. The notice must:

- a) give the reason the prime Contractor is requesting substitution of the listed Subcontractor;
- b) give the listed Subcontractor five working days to submit a written objection to the Department's Contracts Office and copies to the Department's Contract Manager;
- c) notify the Subcontractor that if a written objection is not received or received past the due date, such failure will constitute consent to the substitution; and
- d) the notice shall be served by certified or registered mail to the last known address of the listed Subcontractor.

If written objections are filed by the listed Contractor, the Department's Contract's Office, will render a written decision. The Department's Contracts Office shall give written notice of at least five working days to the listed Subcontractor of a hearing by the Department on the prime Contractor's request for substitution.

The Department may consent to the substitution of another Subcontractor in any of the following situations:

- When the Subcontractor listed in the solicitation bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written Agreement, when that written Agreement based upon the general terms, conditions, plans and specifications for the project involved or the terms of that Subcontractor's written bid is presented to the Subcontractor by the prime Contractor.
- When the listed Subcontractor becomes bankrupt or insolvent, or goes out of business.

- When the listed Subcontractor fails or refuses to perform his or her Subcontract.
- When the listed Subcontractor fails or refuses to meet the bond requirements of the prime Contractor.
- When the prime Contractor demonstrates to the Department, or its duly authorized Officer, that the name of the Subcontractor was listed as the result of an inadvertent clerical error.
- When the listed Subcontractor is not licensed pursuant to any applicable licensing requirement of any regulatory agency of the State of California.
- When the Department's or its duly authorized officer or the Department's Contract Manager determines that the work performed by the listed Subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, Agreement requirements or that the Subcontractor is substantially delaying or disrupting the progress of the work.

The request for substitution and the State's approval or disapproval is **not** to be construed as an excuse for non-compliance with any other provision of law, including but not limited to the Subletting and Subcontracting Fair Practices Act (PCC §4100 et seq.) or any other Agreement requirements relating to the substitution of Subcontractors.

Failure to adhere to the DVBE participation in the performance of the Agreement as proposed by the successful bidder/proposer may be cause for Agreement termination and recovery of damages under the rights and remedies due the State.

DVBE/Participation

For the purposes of this DVBE participation requirement, the following apply:

- a) A DVBE firm may participate as a prime Contractor, Joint Venture Partner, Subcontractor or Supplier of materials or supplies.
- b) Any bid amount proposed for DVBE participation can only be counted once. That is, any further Subcontracting or spending of DVBE designated bid amounts to another DVBE Subcontractor/Supplier will not count toward meeting the Agreement goal. Moreover, any part of a DVBE-designated bid amount for any other Subcontractor involved in the same bid (suppliers are acceptable) will not count toward meeting the Agreement goal.

Agreement Audits

Agreement audit requirements and record retention requirements are covered under provisions in the proposed form of Agreement.

Frequently Asked Questions:

Question If I am awarded the Agreement, either with partial or full goal attainment documented, am I required to use the subcontractor/supplier proposed in my bid?

Answer Yes, unless you have requested and received prior written approval in writing for substitution in writing from the Department Contract Manager.

Question What happens to bids considered non-responsive to the DVBE Participation Program requirements?

Answer Non-responsive bids are rejected. Many are rejected because of:

- incomplete documentation;
- documentation not received by the bid due date;
- mathematical error related to the percentages;
- basing goal attainment on workforce composition.

Question If I am a Disabled Veteran Business Enterprise, can I meet the Agreement goal as a single company?

Answer Yes.

Question If my submitted bid meets the Agreement goal and the State decides to make multiple awards to the bid/Agreement, could my bid be considered non-responsive?

Answer No, the State's decision to make multiple awards will not disregard bid compliance.

Question If I meet the goal, should I also complete and submit the Good Faith Effort Documentation form?

Answer Yes. If a DVBE listed for goal attainment is disqualified and the removal results in not meeting the advertised goal, failure to complete and provide the "good faith effort" documentation form will result in an automatic rejection of the bid. Some examples of disqualification are: (a) DVBE prime contractor was not certified by the solicitation due date; (b) a DVBE subcontractor was not certified by the solicitation due date; or (c) the bidder/proposer made a mathematical error resulting in failure to meet the goal.

DOCUMENTATION OF DISABLED VETERAN BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

STD. 840 (REV. 4-1-2003)

Designation Of Option Check the appropriate box(es) to indicate the option(s) with which you choose to comply, complete the applicable sections and attach the required supporting documentation. You are advised to read all instructions carefully prior to completing this form. Remember that only California certified DVBEs who can provide related goods and/or services may be used to satisfy these program solicitation requirements.

- ☐ **OPTION A – I commit to meeting the full DVBE Agreement participation requirement.** Complete STD. 840, Section A.
- ☐ **OPTION B – I performed and documented a Good Faith Effort (GFE) in an attempt to obtain DVBE participation.** Complete STD. 840, Section A (for GFE Steps 4 & 5) and STD. 840 (REVERSE), Section B (for GFE Steps 1–3).
- ☐ **OPTION C – I submit a copy of my firm's "Notice of Approved DVBE Business Utilization Plan."**

A. Full information must be provided.

For Agreement participation commitment, at least one DVBE must be listed. DVBEs must perform a commercially useful function. List the specific goods and/or services with the dollar and/or percentage value(s) that the DVBE(s) commit(s) to provide and the DVBE's tier (prime contractor = 0, subcontractor to prime contractor = 1, subcontractor to Tier 1 subcontractor = 2, etc.). If both the estimated dollar amount and percentage are listed, the higher value supercedes. Attach additional pages to list all other DVBE subcontractors/suppliers (you may use STD. 840A). During contract performance, all requests for substituting named DVBEs must be made in accordance with the provisions of California Code of Regulations, Title 2, Section 1896.64(c).

For Good Faith Effort (GFE), use this section to document your first completed contacts with (Step 4), and consideration of (Step 5), relevant DVBEs. Business reasons for non-selection must be documented. Attach additional pages to list all other DVBE contacts (you may use STD. 840A). Copies of all written invitations and delivery confirmations must also be attached and submitted with the bid/proposal.

BOTH SECTIONS MUST BE COMPLETED FOR GOOD FAITH EFFORT AT LEAST ONE DVBE MUST BE NAMED FOR PARTICIPATION	Date Contacted / /		DVBE Company Name (If you are the Prime and a DVBE enter your name, otherwise enter the solicited subcontractor.)			
	DVBE Contact Name & Reference #		Telephone Number () - ext.	Fax Number () -	E-mail (if available)	
	Street Address, City, State, and Zip Code					
	OR	<input type="checkbox"/> Yes, I am, or I will subcontract with, the listed DVBE to provide the following goods and/or services:				
		Specific Goods and/or Services		Estimated \$ and/or % \$	Tier %	
		<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:				
	Date Contacted / /		DVBE Company Name			
	DVBE Contact Name & Reference #		Telephone Number () - ext.	Fax Number () -	E-mail (if available)	
	Street Address, City, State, and Zip Code					
OR	<input type="checkbox"/> Yes, I am, or I will subcontract with, the listed DVBE to provide the following goods and/or services:					
	Specific Goods and/or Services		Estimated \$ and/or % \$	Tier %		
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:					

ATTACH ADDITIONAL PAGES (OR USE STD. 840A) TO LIST ALL OTHER DVBE CONTACTS

Go to Page 2, Section B to continue Good Faith Effort documentation ➡

ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS

STD. 840A (EST. 4-1-2003)

B Documentation of Good Faith Effort Steps 1, 2, and 3—Remember to carefully read all instructions prior to completing this form. Please refer to the Resources & Information page for detailed contact information and a sample advertisement format.

STEP 1. Contact the Awarding Department (the contracting official, unless another contact is specified) to identify potential DVBE subcontractors/suppliers, and document this contact (**optional**).

Date Contacted / /	Contact Name	Telephone Number () - ext.
Describe Result		

STEP 2. Contact all of the following and document your contacts as required: Other state and federal agencies and local organizations to identify potential DVBE subcontractors/suppliers. **Attach screen print(s) of Web Results for verification.**

Other State Agency – Procurement Division, Office of Small Business and DVBE Certification (Certification Office)

PHONE CONTACT OR ONLINE SEARCH	Date / /	Telephone Number (916) 322-5060 (916) 375-4940	Contact Name	<input type="checkbox"/> I contacted the Certification Office for a list of California certified DVBEs.
	Date / /	Internet Address http://www.pd.dgs.ca.gov/smbus		<input type="checkbox"/> I searched the Certification Office's online database to identify California certified DVBEs.
Describe Result				

Federal Agency – U.S. Small Business Administration (SBA) online database

Date / /	Internet Address http://www.ccr.gov/	<input type="checkbox"/> I searched the federal online database for California DVBEs.
Describe Result		

Local DVBE Organizations – Contact at least one local DVBE organization – refer to the DVBE Resource Packet for a list of acceptable contacts. (<http://www.pd.dgs.ca.gov/smbus> – select “DVBE Resource Packet”)

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address () - http://www.
Describe Result			

Date / /	Organization Name	Contact Name	Telephone Number and/or Internet Address () - http://www.
Describe Result			

STEP 3. Publish advertisements: At least two (2) advertisements: One (1) ad in an accepted trade paper; and one (1) ad in an accepted DVBE focus paper (please see the DVBE Resource Packet for a list of all accepted publications); unless the paper is dual purpose (fulfilling both trade and focus requirements), in which case one (1) ad is acceptable. **Document this step as required and remember to attach a copy of your advertisement(s).**

Focus Paper Name (list full name)	Contact Name	Telephone Number () -
Address		Date Ad Published / /
Trade and Focus Paper Name (list full name)	Contact Name	Telephone Number () -
Address		Date Ad Published / /

☐ I certify the ad was placed to reach both trade and focus audiences through this one publication.

Trade and Focus Paper Name (list full name)	Contact Name	Telephone Number () -
Address		Date Ad Published / /

ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS

STD. 840A (EST. 4-1-2003)

This document may be used as a continuation from Section A, STD. 840 (REV. 4-1-2003)

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

ADDITIONAL DISABLED VETERAN BUSINESS ENTERPRISE CONTACTS

STD. 840A (EST. 4-1-2003)

This document may be used as a continuation from Section A, STD. 840 (REV. 4-1-2003)

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

Date Contacted / /	DVBE Company Name		
DVBE Contact Name & Reference #	Telephone Number () - ext.	Fax Number () -	E-mail (if available)
Street Address, City, State, and Zip Code			

OR	<input type="checkbox"/> Yes, I will subcontract with the listed DVBE to provide the following goods and/or services:		
	Specific Goods and/or Services	Estimated \$ and/or % \$ %	Tier
	<input type="checkbox"/> No, I am unable to subcontract with the DVBE for the following business reasons:		

DVBE Program Requirements Supplier Checklist (Rev. 4-1-2003)

Please do not submit this checklist with your bid. It is provided for your use only. Checking every box of your elected compliance option does not guarantee that your bid will be evaluated compliant.

☐ **OPTION A: COMMITMENT TO DVBE AGREEMENT PARTICIPATION**

- ☐ STD. 840 included with bid
 - ☐ DVBE Written Agreement(s)
 - ☐ Designated the Commitment Option – Checked the first box
 - ☐ Listed at least one California certified DVBE subcontractor
 - ☐ Checked the box(es) for “Yes...”
 - ☐ Listed specific goods and/or services DVBE(s) agrees to provide
 - ☐ Proposed DVBE Agreement performance is a “commercially useful function” relevant to the Agreement
 - ☐ Listed the estimated dollar amount and/or percentage of Agreement for the DVBE’s participation
 - ☐ Proposed DVBE participation meets the 3% requirement (unless a different percentage is specified)
 - ☐ Attached a copy of the DVBE’s certification letter from the Department of General Services
-

☐ **OPTION B: GOOD FAITH EFFORT (GFE)**

- ☐ STD. 840 included with bid
 - ☐ Designated the GFE Option – checked the second box
 - ☐ (Step 4) Listed all DVBEs contacted and invited to perform on the proposed Agreement
 - ☐ Confirmed that listed DVBEs are California certified and verified certification expiration date
 - ☐ Attached copies of the invitations sent to the listed DVBEs
 - ☐ Invitations included the required contact information
 - ☐ Attached copies of the delivery confirmations for invitations to DVBEs (e.g. mail receipts, fax confirmations, etc.)
 - ☐ (Step 5) Checked the “No” boxes and listed the business reasons for non-selection of DVBEs contacted
 - ☐ (Step 1) Contacted the Awarding Department and listed contact and results
 - ☐ (Step 2) Contacted Other State agency (Office of Small Business and DVBE Certification) and listed the contact and results
 - ☐ (Step 2) Searched the Federal U.S. Small Business Administration (SBA) using the Central Contractor Registration (CCR) on-line database and noted the results
 - ☐ (Step 2) Contacted Local DVBE Organization(s) and listed the contact and results
 - ☐ (Step 3) Advertised – IF NOT WAIVED
 - Listed full information for the advertisement(s) and publication(s)
 - At least 2 ads in one trade and in one DVBE focus publication; **OR** 1 ad in one dual-purpose publication
 - Attached a copy of the advertisement(s) and affidavit(s) of publication
 - The advertisement(s) were published at least 14 days prior to the bid date
 - The advertisement(s) included my required contact information
-

☐ **OPTION C: BUSINESS UTILIZATION PLAN (BUP)**

- ☐ Prior to the bid due date – Submitted a BUP to DGS-PD and received approval
 - ☐ STD. 840 included with bid
 - ☐ Designated the BUP Option – Checked the third box
 - ☐ Attached a copy of the BUP Approval letter from DGS-PD
-

Information to Assist Contractors Bidding on Caltrans Projects Using Certified Disabled Veteran Business Enterprises (DVBES) for State Funded Contracts

The objective of the California Department of Transportation (Caltrans), Civil Rights, Disadvantaged Business Enterprise Program is to increase the level of participation of Disabled Veteran Business Enterprises (DVBE) on state funded highway construction. The following information will assist Contractors seeking certified DVBEs to meet the required project participation goals for contracts with Caltrans.

How To Obtain A List of Certified DVBEs On-Line from the DGS Database

The Department of General Services (DGS) Office of Small Business and Disabled Veteran Business Enterprises Certification (OSDC) administers DVBE certification and maintains a certified directory.

- Access the directory at, <http://www.pd.dgs.ca.gov/smbus/default.htm>
- Click on [Certified Firm Inquiry Services](#), located in the center of the web page. These first two steps will take you to the web page where you can exercise your options of querying DVBEs.

There are a number of options to identify DVBEs from the DGS database web site. Either the [Keyword Query](#) or [Standard Query](#) can be used to find firms by certification reference number (REF), business name, certification type, business type, Standard Industrial Classification (SIC) Code, and service area location. Following are instructions for two options to query certified DVBEs. **For assistance with specialized web site functions or to be mailed a copy of the Directory of Certified DVBEs, please call the DGS OSDC at (916) 375-4940.**

Contact Bryan Harradine at (916) 440-0511 for web or download assistance.

A "Certified Firm Listing" of DVBEs can be queried, using the following instructions:

- Click on [Standard Query](#) option (located in the center of the web page)
- Under the title **Find Certified Firms**, Click on [Search for certified Firms by Certification Type, Business Type, SIC Code, and/or Location](#)

Step 1 of 4 Check box for DVBE **Certification Type** and Check box for **Business Type** (select from Construction, Manufacturer, Non-manufacturer, and/or Service), click

Step 2 of 4 Scroll and hold CTRL key selecting up to 3 **Major Industry Sic Code(s)**, click

Note: This page provides a link to the U.S. Department of Labor, Occupational Safety & Health Administration (OSHA) web page to look up a SIC code, by clicking on [Search for Standard Industrial Classification \(SIC\) code](#) Enter keyword (i.e., concrete). View it, click upper right "x" to exit link and return to Step 2 of 4, then continue.

Step 3 of 4 Hold the CTRL key, selecting multiple **Line of Business SIC Code(s)**, click

Step 4 of 4 Select either: ☐ **Statewide** or, ☐ **Use a map of California to choose a location** (If you use the map, select the District where the work is to be performed.), click

**Information to Assist Contractors Bidding on Caltrans Projects Using Certified
Disabled Veteran Business Enterprises (DVBEs) for State Funded Contracts**

A complete list, by category, can also be downloaded, using the following instructions:

- Click on [Standard Query](#) option (located in the center of the web page)
- Under the title **Download Certified Firm Data to Customize Your Own List**, click on [DVBE](#) (located in about the center of the web page). Use either PDF or TXT versions.
- "The PDF versions are lists that you can view and/or print. "

[Commodities](#)

[Construction](#) (Click on one of these certified listings categorized by DGS or all categories and print it)

[Services](#)

[All Categories](#)

*The **TXT version** allows manipulation of data to download to your customized list-follow web page instructions.

NOTE: Contractors are to include the results web search page (print screen) of "Certified Firm Listing", or the cover page of the "Directory of DVBEs" page with the *CALTRANS BIDDER-DVBE INFORMATION* bid documents to verify date the certification information was researched.

How To Obtain the DVBE Resource Packet

The DVBE Resources Packet was developed by DGS to assist in soliciting DVBEs. It includes a listing of approved advertising sources of trade and focus newspapers, and a listing of state, federal, and local contacts to locate DVBEs. The packet can be printed from the DGS OSDC web site located at, <http://www.pd.dgs.ca.gov/smbus/default.htm>

- In the center of the web page, under the "Outreach & Education" section, click on [DVBE Resource Packet](#) to view or print this information.

STATE OF CALIFORNIA-DEPARTMENT OF TRANSPORTATION

BIDDER'S BOND

ADM-2010 (REV. 8/97)

We _____

_____ as Principal, and

as Surety are bound unto the State of California, Department of Transportation, hereafter referred to as "Obligee", in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitting a bid to the Obligee, for _____

(Copy here the exact description of work, including location, as it appears on the proposal)

for which bids are to be opened at _____

(Insert place where bids will be opened)

_____ on _____ .

(Insert date of bid opening)

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance of the contract and the other to guarantee payment for labor and materials as provided by law, then this obligation shall be null and void; otherwise, it shall remain in full force.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Dated: _____, 20____.

Correspondence or claims relating to this bond should be sent to the surety at the following address:

—

—

Principal

Surety

By _____

Attorney-in-Fact

CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of _____ SS

On this _____ day of _____ in the year 20 _____ before me, a notary public

in and for the county and state aforesaid, personally appeared _____,

Attorney-in-Fact

known to me to be the person whose name is subscribed to the within instrument and known to me to be the Attorney-in-Fact of _____,

and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as Attorney-in-Fact.

(SEAL)

Notary Public